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Senate

The Senate met at 3 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, Lord of history, if a sparrow does not fall without Your knowledge, certainly the issues facing our Senate concern You. Your word assures us that in everything You are working for the good of those who love You. May that confidence guide the Members of this body as they seek equitable and just solutions to complicated problems. Give wisdom to discern, courage to believe, and determination to do Your will.

Bless, O God, the faithful men and women who manage the machinery of the Senate, without whom this legislative body could not function. Thank You for their efficient and productive work. Fill this place with Your presence.

We ask in the name of Him who in love gave Himself for us all. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 10, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator

NOTICE

If the 110th Congress, 1st Session, adjourns sine die on or before December 21, 2007, a final issue of the *Congressional Record* for the 110th Congress, 1st Session, will be published on Friday, December 28, 2007, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Thursday, December 27. The final issue will be dated Friday, December 28, 2007, and will be delivered on Wednesday, January 2, 2008.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be formatted according to the instructions at http://webster/secretary/cong_record.pdf, and submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

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By order of the Joint Committee on Printing.

ROBERT A. BRADY, *Chairman.*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WEBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

SPENDING RESTRAINT

Mr. MCCONNELL. Mr. President, I do not see the majority leader on the floor at the moment. I know we are not having morning business and are going straight to the farm bill, which I applaud. But I do wish to use a few minutes of my leader time at the outset of today's session.

Mr. President, the majority in the House of Representatives will soon propose a half-trillion-dollar spending bill. They have left it to the Senate to make sure the bill includes troop funding. We have another responsibility to keep in mind as we wait for the House to act, and that is our responsibility to the taxpayers.

Nearly a quarter of the way into the fiscal year, we are still 11 appropriations bills short. That is out of a total of 12. Eleven out of 12 have not yet been signed into law. We need to act on these and to do so in a fiscally responsible way that ensures they actually become law.

As I have said, and as we have all seen, there is a way to make law and there is a way to make a political statement. On these appropriations bills, the middle-class tax hike known as the AMT, the farm bill, the Energy bill, and FISA, there is a way we can get all of these done, and we know what that way is. The path forward is clear. The question now is whether the majority will take it.

INTERNATIONAL HUMAN RIGHTS DAY

Mr. MCCONNELL. Mr. President, this is International Human Rights Day. I would like to take a moment to call attention to the tragic lack of human rights the world recently witnessed in Burma.

A few months ago, we watched in hope as pro-democracy activists took to the streets in quiet protest against the oppressive policies of the State Peace and Development Council.

Then we watched in horror as the Burmese regime showed its ugly face by putting down peaceful protesters, killing many, and leaving still more unaccounted for. Soon the sound of gunfire gave way to rumors of tortured prisoners and the rounding up of Buddhist monks who had sought nothing more than justice and peace and freedom.

Unfortunately, the news cycle also gave way to new stories and new images. A world that had been outraged about what it saw in Burma soon moved on to other pressing things. But the Senate has not forgotten. We are not fooled by SPDC's all-too-modest efforts at ''dialog'' with Aung San Suu Kyi, nor are the people of Burma, nor are the people of the world.

So it is my hope on this International Human Rights Day that the U.N. Security Council will this month turn its attention to consideration of an arms embargo on Burma. Burma faces no external threats. It uses its weapons not to defend itself but to maintain its grip on power and intimidate its own people.

Several weeks ago, Senator BIDEN and I introduced S. 2257, the Burma Democracy Promotion Act of 2007, which would further tighten U.S. sanctions on the SPDC. A companion measure in the House is expected to be considered soon.

It is my hope that in the very near future we can move to Burma sanctions legislation. In so doing, we would reaffirm this body's longstanding commitment to freedom and democracy in Burma.

Let's not forget the images that shook the world, nor the people who stood up against their oppressors, many of whom still suffer for the bravery they showed in those days.

On this International Human Rights Day, let's show them around the world we remember their struggle.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2419, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

Pending:

Harkin amendment No. 3500, in the nature of a substitute.

Harkin (for Dorgan-Grassley) amendment No. 3695 (to amendment No. 3500), to strengthen payment limitations and direct the savings to increase funding for certain programs.

Brown amendment No. 3819 (to amendment No. 3500), to increase funding for critical farm bill programs and improve crop insurance.

Klobuchar amendment No. 3810 (to amendment No. 3500), to improve the adjusted gross income limitation and use the savings to provide additional funding for certain programs and reduce the Federal deficit.

Chambliss (for Lugar) amendment No. 3711 (to amendment No. 3500), relative to traditional payments and loans.

Chambliss (for Cornyn) amendment No. 3687 (to amendment No. 3500), to prevent duplicative payments for agricultural disaster assistance already covered by the Agricultural Disaster Relief Trust Fund.

Chambliss (for Coburn) amendment No. 3807 (to amendment No. 3500), to ensure the priority of the farm bill remains farmers by eliminating wasteful Department of Agriculture spending on casinos, golf courses, junkets, cheese centers, and aging barns.

Chambliss (for Coburn) amendment No. 3530 (to amendment No. 3500), to limit the distribution to deceased individuals, and estates of those individuals, of certain agricultural payments.

Chambliss (for Coburn) amendment No. 3632 (to amendment No. 3500), to modify a provision relating to the Environmental Quality Incentive Program.

Mr. SALAZAR. Mr. President, I would now like to return to the pending business, the farm bill, which we have now been working on in the Senate for a period of time.

The ACTING PRESIDENT pro tempore. The pending business is the farm bill.

Mr. SALAZAR. I will make a few general comments about the farm bill. It is a piece of legislation which is very important to the food and fuel security of this country. I have had the honor of working with Senator HARKIN and his leadership of this effort, along with Senator CHAMBLISS now, for at least 2½ years.

This legislation is truly historic for our country. Senator THUNE, who is on the floor with me this afternoon, has also been one of those champions in trying to be sure we get a good farm bill for the United States of America.

At the heart of this farm bill, we are talking about opening a whole new chapter for America. It is not just a new chapter for rural America, this is opening a new chapter for the clean energy future for the United States of America. And title IX of this legislation, which has been supplemented with the resources that are coming from the Finance Committee and the leadership of Senator BAUCUS and Senator GRASSLEY, will make this farm bill the best farm bill for the clean energy future of America we have ever had.

So it will open a whole new chapter of opportunity for America as we try to deal with those forces that have kept us addicted to the foreign powers that control the oil of this world. It goes beyond energy, in terms of the new chapter we open here. It also deals with conservation, where the additional $4 billion or so that is in this legislation will help us embrace a new ethic forward in conservation; will make sure that that 70 percent of America which now houses the farms and ranches of America remains the kind of land and water we can be very proud of.

It is a very good bill in terms of conservation. It also is a very good bill in making sure the nutrition programs of this country are fully funded. We often remind the people of this country that even though it is called a farm bill, and people think about it as a bill that affects only rural America, it affects all

of America, and you see that particularly in the nutrition title.

As Senator CONRAD has come to the floor and often reminded our colleagues, about 67 percent of all the investment we are making in this farm bill is going into the nutrition title of this legislation.

That is a significant investment to help those who are most vulnerable. There are significant additions we are making in this farm bill that will make our nutrition programs even better, that include the fruit and vegetable programs, which are very much a part of this farm bill.

It is important to remind the people of America that when we talk about the farm bill, we are talking about providing the best food that can be provided. This chart shows countries such as Indonesia, where 55 percent of disposable income goes for food. In the Philippines, it is 38 percent. In China, it is 26 percent. In America, it is only 10 percent; 10 percent of the money we spend from our personal disposable income goes for food. That means American farmers and ranchers are providing the best food at the lowest possible cost. At the end of the day, that is what is at the heart of this farm bill.

I thank Senator HARKIN and Senator CHAMBLISS for having brought us to this point.

AMENDMENT NO. 3616 TO AMENDMENT NO. 3500

I ask unanimous consent that the pending amendment be set aside and I call up amendment No. 3616.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR], for himself, Mr. KERRY, Mr. SCHUMER, and Ms. STABENOW, proposes an amendment numbered 3616.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide incentives for the production of all cellulosic biofuels)

Beginning on page 1472, line 1, strike all through page 1480, line 3, and insert the following:

PART II—ALCOHOL AND OTHER FUELS

SEC. 12311. EXPANSION OF SPECIAL ALLOWANCE TO CELLULOSIC BIOFUEL PLANT PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 168(l) (relating to special allowance for cellulosic biomass ethanol plant property) is amended to read as follows:

''(3) CELLULOSIC BIOFUEL.—For purposes of this subsection, the term 'cellulosic biofuel' means any alcohol, ether, ester, or hydrocarbon produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (l) of section 168 is amended by striking ''cellulosic biomass ethanol'' each place it appears and inserting ''cellulosic biofuel''.

(2) The heading of section 168(l) is amended by striking ''CELLULOSIC BIOMASS ETHANOL'' and inserting ''CELLULOSIC BIOFUEL''.

(3) The heading of paragraph (2) of section 168(l) is amended by striking ''CELLULOSIC BIOMASS ETHANOL'' and inserting ''CELLULOSIC BIOFUEL''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 12312. CREDIT FOR PRODUCTION OF CELLULOSIC BIOFUEL.

(a) IN GENERAL.—Subsection (a) of section 40 (relating to alcohol used as fuel) is amended by striking ''plus'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', plus'', and by adding at the end the following new paragraph:

''(4) the small cellulosic biofuel producer credit.''.

(b) SMALL CELLULOSIC BIOFUEL PRODUCER CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 40 is amended by adding at the end the following new paragraph:

''(6) SMALL CELLULOSIC BIOFUEL PRODUCER CREDIT.—

''(A) IN GENERAL.—In addition to any other credit allowed under this section, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount for each gallon of not more than 60,000,000 gallons of qualified cellulosic biofuel production.

''(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount means the excess of—

''(i) $1.28, over

''(ii) the sum of—

''(I) the amount of the credit in effect for alcohol which is ethanol under subsection (b)(1) (without regard to subsection (b)(3)) at the time of the qualified cellulosic biofuel production, plus

''(II) the amount of the credit in effect under subsection (b)(4) at the time of such production.

''(C) QUALIFIED CELLULOSIC BIOFUEL PRODUCTION.—For purposes of this section, the term 'qualified cellulosic biofuel production' means any cellulosic biofuel which is produced by an eligible small cellulosic biofuel producer and which during the taxable year—

''(i) is sold by the taxpayer to another person—

''(I) for use by such other person in the production of a qualified cellulosic biofuel mixture in such other person's trade or business (other than casual off-farm production),

''(II) for use by such other person as a fuel in a trade or business, or

''(III) who sells such cellulosic biofuel at retail to another person and places such cellulosic biofuel in the fuel tank of such other person, or

''(ii) is used or sold by the taxpayer for any purpose described in clause (i).

''(D) QUALIFIED CELLULOSIC BIOFUEL MIXTURE.—For purposes of this paragraph, the term 'qualified cellulosic biofuel mixture' means a mixture of cellulosic biofuel and any petroleum fuel product which—

''(i) is sold by the person producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the person producing such mixture.

''(E) ADDITIONAL DISTILLATION EXCLUDED.—The qualified cellulosic biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

''(F) APPLICATION OF PARAGRAPH.—This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2007, and before April 1, 2015.''.

(2) TERMINATION DATE NOT TO APPLY.—Subsection (e) of section 40 (relating to termination) is amended—

(A) by inserting ''or subsection (b)(6)(E)'' after ''by reason of paragraph (1)'' in paragraph (2), and

(B) by adding at the end the following new paragraph:

''(3) EXCEPTION FOR SMALL CELLULOSIC BIOFUEL PRODUCER CREDIT.—Paragraph (1) shall not apply to the portion of the credit allowed under this section by reason of subsection (a)(4).''.

(c) ELIGIBLE SMALL CELLULOSIC BIOFUEL PRODUCER.—Section 40 is amended by adding at the end the following new subsection:

''(i) DEFINITIONS AND SPECIAL RULES FOR SMALL CELLULOSIC BIOFUEL PRODUCER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible small cellulosic biofuel producer' means a person, who at all times during the taxable year, has a productive capacity for cellulosic biofuel not in excess of 60,000,000 gallons.

''(2) CELLULOSIC BIOFUEL.—

''(A) IN GENERAL.—The term 'cellulosic biofuel' has the meaning given such term under section 168(l)(3), but does not include any alcohol with a proof of less than 150.

''(B) DETERMINATION OF PROOF.—The determination of the proof of any alcohol shall be made without regard to any added denaturants.

''(3) AGGREGATION RULE.—For purposes of the 60,000,000 gallon limitation under paragraph (1) and subsection (b)(6)(A), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

''(4) PARTNERSHIP, S CORPORATIONS, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitation contained in paragraph (1) shall be applied at the entity level and at the partner or similar level.

''(5) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

''(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the credit provided for in subsection (a)(4) from directly or indirectly benefitting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of cellulosic biofuel during the taxable year.

''(7) ALLOCATION OF SMALL CELLULOSIC PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—Rules similar to the rules under subsection (g)(6) shall apply for purposes of this subsection.''.

(d) CELLULOSIC BIOFUEL NOT USED AS A FUEL, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 40(d) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) SMALL CELLULOSIC BIOFUEL PRODUCER CREDIT.—If—

''(i) any credit is allowed under subsection (a)(4), and

''(ii) any person does not use such fuel for a purpose described in subsection (b)(6)(C),

then there is hereby imposed on such person a tax equal to the applicable amount for each gallon of such cellulosic biofuel.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 40(d)(3) is amended by striking ''PRODUCER'' in the heading and inserting ''SMALL ETHANOL PRODUCER''.

(B) Subparagraph (E) of section 40(d)(3), as redesignated by paragraph (1), is amended by striking ''or (C)'' and inserting ''(C), or (D)''.

(e) BIOFUEL PRODUCED IN THE UNITED STATES.—Section 40(d), as amended by this section, is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR SMALL CELLULOSIC BIOFUEL PRODUCERS.—No small cellulosic biofuel producer credit shall be determined under subsection (a) with respect to any biofuel unless such biofuel is produced in the United States.''.

(f) WAIVER OF CREDIT LIMIT FOR CELLULOSIC BIOFUEL PRODUCTION BY SMALL ETHANOL PRODUCERS.—Section 40(b)(4)(C) is amended by inserting ''(determined without regard to any qualified cellulosic biofuel production'' after ''15,000,000 gallons''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced after December 31, 2007.

Mr. SALAZAR. Mr. President, I thank my colleagues who have cosponsored this amendment: Senators KERRY, SCHUMER, and STABENOW. This amendment will strengthen the provisions in the farm bill that came out of the Finance Committee. It is an amendment that deals with cellulosic biofuels. We all know that cellulosic biofuels come from a different feedstock than the conventional ethanol going into our engines today, and it offers great promise for a clean energy future. Conventional ethanol typically comes from corn or soy, but cellulosic biofuels can be produced from a wide variety of feedstocks, including agricultural plant wastes, such as corn stover and cereal straws, plant waste from industrial processes, such as sawdust, and energy crops which are grown specifically for fuel production, such as switchgrasses.

Cellulosic biofuels have an energy content three times higher than corn ethanol, and they emit a low net level of greenhouse gases. Thanks to the great work of scientists around our country, including the National Renewable Energy Lab in Golden, CO, we are on the verge of putting cellulosic ethanol into widespread use. The agricultural tax package reported out of the Finance Committee with the leadership of Chairman BAUCUS and Ranking Member GRASSLEY helps us get cellulosic ethanol into production by creating a tax credit equivalent to $1.28 a gallon, a number that is based on findings from the Department of Energy and structured on the enhanced credit we established in the 2005 Energy Policy Act. The only trouble with a tax credit is that it applies to cellulosic alcohols rather than to all cellulosic biofuels. This may appear to be a semantic difference but it actually has a huge impact.

As currently proposed, specifying that the credit must go only to cellulosic alcohols unnecessarily limits the applicability of this vital incentive. In my view, Congress should not be picking winners from among the cellulosic biofuels and technologies that are out there. The fact is there is an entire new range of fuels technologies being developed in the United States to go beyond ethanol. These technologies would be able to make renewable blends for diesel, jet fuel, gasoline, boiler fuels, locomotives, and marine use. Unfortunately, many of these fuels would not be eligible for the tax incentive under the current language which specifies that a fuel must be a cellulosic alcohol. Therefore, our amendment makes a simple change. It changes cellulosic alcohols to cellulosic biofuels. I hope my colleagues will support this simple and sensible fix. It will further strengthen the important part of the farm bill that deals with a clean energy future. I look forward to working with my colleagues on this amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

AMENDMENT NO. 3821 TO AMENDMENT NO. 3500

Mr. THUNE. Mr. President, I send an amendment to the desk on behalf of Senator MCCONNELL and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for Mr. MCCONNELL, proposes an amendment numbered 3821.

The amendment is as follows:

(Purpose: To promote the nutritional health of school children, with an offset)

On page 20, line 11, strike ''pulse crops,''.

On page 23, strike paragraph (14) and redesignate paragraphs (15) through (17) as paragraphs (14) through (16), respectively.

On page 24, line 18, strike ''pulse crop or''.

On page 26, line 6, strike ''pulse crop or''.

On page 27, line 17, strike ''camelina, or eligible pulse crop'' and insert ''or camelina''.

On page 27, lines 21 and 22, strike ''CAMELINA, AND ELIGIBLE PULSE CROPS'' and insert ''AND CAMELINA''.

On page 27, lines 24 and 25, strike ''camelina, and eligible pulse crops'' and insert ''and camelina''.

On page 28, line 2, strike ''camelina, or pulse crop'' and insert ''or camelina''.

On page 28, line 5, strike ''camelina, or pulse crop'' and insert ''or camelina''.

On page 28, lines 8 and 9, strike ''camelina, or eligible pulse crop'' and insert ''or camelina''.

Beginning on page 28, line 12, through page 29, line 9, strike ''camelina, or pulse crop'' each place it appears and insert ''or camelina''.

On page 29, lines 15 through 19, strike ''camelina, and eligible pulse crops'' each place it appears and insert ''and camelina''.

On page 29, line 24, strike ''(other than pulse crops)''.

On page 35, strike lines 8 through 13.

Beginning on page 49, strike line 19 and all that follows through page 51, line 4, and insert the following:

(a) LOAN RATES.—For each of the 2008 through 2012 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.75 per bushel.

(2) In the case of corn, $1.95 per bushel.

(3) In the case of grain sorghum, $1.95 per bushel.

(4) In the case of barley, $1.85 per bushel.

(5) In the case of oats, $1.33 per bushel.

(6) In the case of the base quality of upland cotton, $0.52 per pound.

(7) In the case of extra long staple cotton, $0.7977 per pound.

(8) In the case of long grain rice, $6.50 per hundredweight.

(9) in the case of medium grain rice, $6.50 per hundredweight.

(10) In the case of soybeans, $5.00 per bushel.

(11) In the case of other oilseeds, $.0930 per pound.

(12) In the case of dry peas, $5.40 per hundredweight.

(13) In the case of lentils, $11.28 per hundredweight.

(14) In the case of small chickpeas, $7.43 per hundredweight.

(15) In the case of large chickpeas, $11.28 per hundredweight.

(16) In the case of graded wool, $1.00 per pound.

(17) In the case of nongraded wool, $0.40 per pound.

(18) In the case of mohair, $4.20 per pound.

(19) In the case of honey, $0.60 per pound.

On page 85, line 4, strike ''pulse crop or''.

On page 86, line 18, strike ''pulse crop or''.

On page 663, between lines 18 and 19, insert the following:

SEC. 49___. PERIODIC SURVEYS OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.

Section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755) is amended by adding at the end the following:

''(f) PERIODIC SURVEYS OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.—

''(1) IN GENERAL.—For fiscal year 2008 and every fifth fiscal year thereafter, the Secretary shall carry out a nationally representative survey of the foods purchased during the most recent school year for which data is available by school authorities participating in the national school lunch program.

''(2) REPORT.—On completion of each survey, the Secretary shall submit to Congress a report that describes the results of the survey.

''(3) FUNDING.—Of the funds made available under section 3, the Secretary shall use to carry out this subsection not more than $3,000,000 for fiscal year 2008 and every fifth fiscal year thereafter.''.

On page 672, between lines 6 and 7, insert the following:

SEC. 49___. TEAM NUTRITION NETWORK.

Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended by striking subsection (l) and inserting the following:

''(l) FUNDING.—

''(1) MANDATORY FUNDING.—

''(A) IN GENERAL.—On October 1, 2008, and on each October 1 thereafter through October 1, 2011, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $25,000,000, to remain available until expended.

''(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subparagraph (A), without further appropriation.

''(C) NUTRITIONAL HEALTH OF SCHOOL CHILDREN.—In allocating funds made available under this paragraph, the Secretary shall give priority to carrying out subsections (a) through (g).

''(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under paragraph (1), there are authorized to be appropriated such sums as are necessary to carry out this section.''.

Mr. SALAZAR. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THUNE. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THUNE. Mr. President, today we begin in earnest to debate the Food and Energy Security Act of 2007, commonly referred to as the 2007 farm bill. The naming of this bill is not without meaning. It is abundantly clear that agriculture and energy production are now inherently related and together will move our Nation toward greater food and energy security. Nearly all the controversy surrounding this farm bill is focused on whether farmers and ranchers should be receiving the assistance this bill would provide, with very little discussion of the potential this bill carries to propel American agriculture into producing alternative fuels to lessen our Nation's dependence on foreign energy sources. The 2002 farm bill was the first farm bill to include an energy title. As a member of the House Agriculture Committee during the 2002 farm bill debate, I can attest that including an energy title in the farm bill was not easy, nor was it without controversy. However, Congress had the foresight to realize that renewable energy was an integral part of our agricultural economy and a comprehensive farm bill would be incomplete without including renewable energy incentives.

The energy title included in the Food and Energy Security Act of 2007 also includes an energy title that builds on the success of the 2002 farm bill. The incentives in this energy title will greatly benefit American consumers, our agricultural producers, and our Nation's energy independence. The farm bill before us was crafted in the spirit of bipartisanship in the Senate Agriculture Committee and was passed out of committee by unanimous consent. We all know the 2002 farm bill expired earlier this year on September 30. I am pleased to report that after the agreement that was reached last week, both Republicans and Democrats will be able to offer amendments to this bill. More than 120 Republican amendments have been filed on this farm bill. More than 140 Democratic amendments have been filed on this farm bill. Although not all of these amendments will receive a vote on the Senate floor, I am pleased the leadership made an agreement to allow consideration of 40 amendments so we can move a farm bill forward.

After a several-week delay, we are now on track to debating this farm bill in an open and fair manner on the floor of the Senate. America's farmers are making planning decisions for next year without knowing what type of farm programs will be available to them. Time is of the essence. We must move quickly and with purpose to finish this farm bill for not only American agriculture but also for the millions of people who receive benefits under the nutrition and other titles of this bill. This bill will give our agricultural producers the additional security they need to move forward with production decisions and will help meet our food and energy needs for the next 5 years and beyond.

I wish to share a couple of facts about the 2007 farm bill. The 2007 farm bill is 1,600 pages long, and it will cost more than $286 billion over 5 years. The very first farm bill passed 70 years ago was 24 pages long. The 2007 farm bill also includes the first farm bill tax title since 1933, adding an extra degree of difficulty and further reason for open debate. During the past 30 years, the farm bill has averaged about 2 weeks of floor time and required as many as 30 recorded votes. It is not just America's farmers and ranchers who are waiting for the 2007 farm bill. Food banks, Food Stamp, and other emergency food program recipients are all anxiously awaiting this farm bill to pass. Their share of the farm bill stake accounts for more than 66 percent of total farm bill spending, and they are pushing hard to get this farm bill passed. Rural development incentives are also on hold until we pass the 2007 farm bill.

For example, a powerplant in rural America is delayed because funding for USDA's rural utility service is tied up in this farm bill. Our farmers and ranchers and millions of other Americans are watching and waiting anxiously for the Senate to debate this farm bill and move it on to a conference committee with the House of Representatives. I look forward to engaging my colleagues this week in a fair and open debate on this monumental legislation which will govern programs affecting rural America for the next 5 years.

I appreciate my colleague from Colorado, Mr. SALAZAR, being here and managing this legislation on the behalf of the Democrats today, because farm bills are not political in their orientation, at least they have not been in the past. Farm bill debates don't end up being normally partisan debate. There are regional differences, differences between different commodity organizations. Everybody comes to a farm bill debate with different priorities, depending on what part of the country they represent. But farm bills have never been partisan or resulted in the kind of partisan gridlock and fights that typically accompany other legislation in the Senate.

The Senator from Colorado and I have worked closely on a number of provisions in this farm bill, particularly the energy title. Energy production has become an integral part of the success and prosperity of rural America. In fact, this farm bill starts moving us into the next generation of energy policy and renewable energy production. We have had great success with corn-based ethanol. We will have seen by the end of this year 7.5 billion gallons of production of corn-based ethanol literally, growing in the last 10 years from ground zero to where we are today, a remarkable tribute to the good work, the initiative, and creativity of our farmers and those who are involved in ethanol production. I give them credit for where we are today. But we also have great potential as we move into the future. We have to put in place policies that will provide the necessary financial and economic incentives for those who want to invest in this next generation of ethanol production, cellulosic ethanol production made from other forms of biomass. We have to have the right kind of incentives in place in order for that to move forward and to continue the momentum that has been so good for many communities across rural America.

With regard to the issue of energy production, a lot of people look at a farm bill and look at the amount of money spent on production agriculture and say: Isn't that terrible that we are spending all this money on food and fiber. We do have in front of us a food, fiber, and energy security bill. I would argue with anyone, based on the statistics the Senator from Colorado put up earlier about the cost of food in the United States and what that means to our economy and the safety and quality of the food we have in this country, that support for production agriculture makes so much sense. If you look at this bill in its totality, the overall funding and how much is spent on production agriculture, it is only about 14 percent of total funding in the underlying bill. If you look at where the funding in this bill goes, about 9 percent of it goes into conservation programs. Those are programs that are important to America. Probably the most important conservation policy that we will put in place in terms of the environmental stewardship we have a responsibility for will be found in the conservation title of this farm bill. There is a conservation reserve program, a wetlands reserve program, a grassland reserves program, an EQIP program, all programs utilized extensively by farmers and ranchers to help address the issues of soil erosion, water quality, wind erosion—all those things that are so important not only in terms of being good stewards of the land but also in many States such as mine, where wildlife production has become an important part of our economy. This year in South Dakota we have 10,000 pheasants. That is a record going back to 1962. We have not seen that many pheasants in South Dakota, largely a result of the good practices put in place through incentives included in farm bill policies in past farm bills.

The conservation title is 9 percent of the money, and 14 percent of the

money goes into production agriculture. That leaves about 67 percent or about two-thirds of the funding in this bill going toward food assistance programs, Food Stamps, WIC Programs, those types of programs that support people who don't have access to good quality food and need that form of assistance.

So food pantries, food banks, and all of those other organizations across this country that meet those types of needs are awaiting action by the Congress to address those needs and get them a bill that will enable them to move forward with the programs that help address the very important concerns and needs that people providing food assistance have in this country.

This is a bill that is comprehensive. It is a bill that struck a balance as it came out of the Agriculture Committee. It was a bipartisan bill when it left the Ag Committee. I hope it can continue to be bipartisan as we debate it on the floor.

A lot of people have different ideas about how to address farm policy in this country. A lot of people have very different notions of what ought to be in a farm bill from those the Senator from Colorado or I might have. But that is why we have the opportunity for a fair and open debate.

A lot of the amendments that are going to be debated I will probably support, and there are many I will probably oppose depending upon how I view those amendments affecting the balance that has been struck in the bill and the way it would impact my particular State of South Dakota. But I think it is fair to say it is high time this debate got underway.

I also have to say when you look at the cost of farm bills, it is important to keep in mind, as we debate this one, that much of the cost that has been associated with the 2002 farm bill in the form of the safety net—and by that I mean your loan deficiency payments, your countercyclical payments, your direct payments—if you look at the totality of the bill and the cost over time, in the last 5 years, $22 billion in tax dollars has been saved because of higher prices, which was the way that program was designed to work. When farm prices went higher, the assistance kicked out. When prices dropped, the assistance kicked back in.

But what we have had now is a fairly substantial period of good prices for our producers in this country. That has led to savings for the taxpayers—$22 billion in savings over the past 5 years, over the period of the last farm bill. In many respects, I attribute that to the success of the ethanol industry because the demand for corn has raised the price of corn in this country. As the price of corn has gone up in this country, as is typically the case, the rising tide lifts all boats.

We have seen wheat prices go up, we have seen soybean prices go up largely because there is only so much acreage out there that can be put in production. So we have seen sustained prices that have enabled us to save, under the 2002 farm bill, payments that otherwise would have been going out to the farmers of this country, to the tune of $22 billion.

So when people criticize the effect that the renewable fuel programs have on farm programs, and the costs, I think it is important to keep that statistic in mind. In fact, in a January 2007 statement, the USDA chief economist stated that farm program payments were expected to be reduced by some $6 billion due to the higher value of a bushel of corn.

As I said, when you multiply that across other commodities—whether it is wheat, soybeans—overall savings in the last farm bill was $22 billion, attributable in my mind, in many respects at least, to the energy policies that were put in place in the 2002 farm bill, the investment that has been made by those across this country in this growing industry that has enabled us to save money in the form of farm program payments. But just as importantly, it has enabled us to lessen our dependence upon foreign sources of energy—7.5 billion gallons of ethanol by the end of this year.

What does that mean in terms of our dependence upon foreign oil? In 2006, the production and use of ethanol in the United States reduced oil imports by 170 million barrels, saving $11 billion from being sent to foreign and often hostile countries. By the end of 2009, ethanol production is expected to increase to 12.5 billion gallons, displacing even more of our Nation's petroleum use.

Promoting clean, homegrown fuels and reducing our dependence on oil imports from dangerous parts of the world is more than just good policy, it is a matter of national security. So this farm bill, with its strong energy policy, moves us in a direction that not only builds upon the gains and the success we have seen in the form of corn-based ethanol, and the 7.5 billion gallons that have already been produced in the form of corn-based ethanol, but it opens the door to a whole new generation of ethanol production in this country that is based upon other forms of biomass, whether that is corn stover or corncobs or switchgrass or wood chips or other types of biomass that we have an abundance of across this country.

It is just flat necessary and important and imperative for us to continue to diversify our energy in this country away from our dependence upon foreign petroleum so the American consumer can access the energy, the fuel they need to get to their jobs, to work, to recreate—to do all those things—in a less expensive way but, more importantly, so we are not dependent on countries around the world whose intentions toward the United States can be described as nothing less than hostile.

With that, we kick off this debate. There are amendments I think that will be offered by some of our colleagues, some of which are already pending at the desk, others of which will be offered throughout the course of the day.

With that, Mr. President, I yield the floor. The Senator from Colorado, I think, perhaps, has someone to recognize for an amendment.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I thank my friend from South Dakota for his leadership on this bill. As he said, this has been a bipartisan effort. This bill came out of the Agriculture Committee on a voice vote. And the Finance provisions, which have now been included in this farm bill, also came to this floor with a very huge bipartisan voice of support. So I am hopeful we can move forward quickly to get to a point where we do have final passage of this bill.

I congratulate and thank Senator REID, our majority leader, for having worked with the Republican leader, Senator MCCONNELL, having brought us together last week so we were able to finally move forward with a set of amendments that will get us moving in the direction where we can finally bring about a finality to this very important bill for America.

I thank my friend from South Dakota for his leadership, as well, on all the energy issues because we have worked a lot on these energy issues not only in the farm bill but in other aspects of our work here. At the end of the day, how we can have rural America help us grow our way to energy independence is one of the great opportunities we have as a nation. I look forward to working with both my Democratic and Republican colleagues as we try to do this effort on this bill through its energy provisions, as well as trying to deal with the Energy bill, hopefully, later on in the week.

Mr. President, I understand our colleague from Idaho has an amendment and wishes to be recognized.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, before I call up my amendment, let me thank both the Senator from Colorado and the Senator from South Dakota for their leadership in getting this very important new ag policy to the floor. I, like they, have been frustrated the last month that we could not get on the bill and cause it to work its will. That is where we are today. We are on the bill, ready for it to work its will.

I do appreciate the comments the Senator from South Dakota has made and thank him for his leadership as it relates to the biofuels issue, to ethanol. Because of the Energy Policy Act of 2005, we have expanded and accelerated—along with agricultural policy—this issue. As you know, if we can pass the Energy bill with the renewable fuels standard, we will go to potentially 15 billion gallons a year in ethanol in the outyears, and hopefully 15

billion plus 6 billion in the outyears of cellulosic biostalk ethanol-based fuel.

If the Energy bill cannot work its will, then the Senator from South Dakota and I and Senator DOMENICI from New Mexico, who just passed through, will attempt to put on the farm bill the renewable fuels standard, which is phenomenally important to the continuation and the growth of the biofuels that will make us increasingly independent of those rogue nations and of what I call the ''petronationalism'' that is sweeping the world, in the fact that if you are a small country and you produce oil, you can take a big country like ours and jerk it around right by its nose, if you will, simply by pricing the oil that you know is so sacred to the developed world.

Having said that, with the phenomenal runup in commodity prices in the last several years, in part because of what the Senator from South Dakota has said—the high value of corn, as corn moved out of feedstock, if you will, into a new kind of feedstock, to ethanol production—farmland and farmland values have gone up tremendously. A farm that had been a second- and third-generation farm—for which, a decade ago, a farmer or his son or daughter might have said: We can no longer afford to farm it; we are going to sell it into development—all of a sudden that land, as part of our energy base and part of our food base has become increasingly important.

AMENDMENT NO. 3640 TO AMENDMENT NO. 3500

With that, Mr. President, at this time I call up amendment No. 3640 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. BROWNBACK, and Mr. ALLARD, proposes an amendment numbered 3640 to amendment No. 3500.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the involuntary acquisition of farmland and grazing land by Federal, State, and local governments for parks, open space, or similar purposes)

At the appropriate place, insert the following:

SEC. ___. FARMLAND AND GRAZING LAND PRESERVATION.

(a) DEFINITIONS.—In this section:

(1) FARMLAND OR GRAZING LAND.—The term ''farmland or grazing land'' means—

(A) farmland (as defined in section 1540(c) of the Farmland Protection Policy Act (7 U.S.C. 4201(c)));

(B) land that is used for any part of the year as pasture land for the grazing of livestock;

(C) land that is assessed as agricultural land for purposes of State or local property taxes; and

(D) land that is enrolled in—

(i) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.); or

(ii) any other program authorized under—

(I) subtitle D of title XII of that Act; or

(II) the Food and Energy Security Act of 2007.

(2) FEDERAL FUNDS OR FINANCIAL ASSISTANCE.—The term ''Federal funds or financial assistance'' means—

(A) Federal financial assistance (as defined in section 101 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)); and

(B) any other Federal funds that are appropriated through an Act of Congress or otherwise expended from the Treasury.

(3) PROHIBITED CONDUCT.—

(A) IN GENERAL.—The term ''prohibited conduct'' means the exercise of eminent domain authority to acquire real property that is farmland or grazing land for the purpose of a park, recreation, open space, conservation, preservation view, scenic vista, or similar purpose.

(B) EXCEPTIONS.—The term ''prohibited conduct'' does not include a transfer of farmland or grazing land for—

(i) use by a public utility;

(ii) a road or other right of way or means, open to the public or common carriers, for transportation;

(iii) an aqueduct, pipeline, or similar use;

(iv) a prison or hospital; or

(v) any use during and in relation to a national emergency or national disaster declared by the President under other law.

(4) RELEVANT ENTITY.—The term ''relevant entity'' means—

(A) a State or unit of local government that engages in prohibited conduct;

(B) a State or unit of local government that gives authority for an entity to engage in prohibited conduct; and

(C) in the case of extraterritorial prohibited conduct—

(i) the entity that engages in prohibited conduct; and

(ii) the State or unit of local government that allows the prohibited conduct to take place within the jurisdiction of the State or local government.

(5) STATE.—The term ''State'' means—

(A) each of the several States of the United States;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the Federated States of Micronesia;

(H) the Republic of the Marshall Islands;

(I) the Republic of Palau; and

(J) the United States Virgin Islands.

(b) PROHIBITIONS.—

(1) IN GENERAL.—If a relevant entity engages in prohibited conduct, no officer or employee of the Federal Government with responsibility over Federal funds or financial assistance may make the Federal funds or assistance available to the relevant entity during the period described in paragraph (2).

(2) DURATION OF PROHIBITION.—The period referred to in paragraph (1) is the period that begins on the date that an officer or employee of the Federal Government determines that a relevant entity has engaged in prohibited conduct and ends on the earlier of—

(A) the date that is 5 years after the date on which the period began; or

(B) the date on which the farmland or grazing land is returned to the person from whom the property was acquired, in the same condition in which the property was originally acquired.

(3) FEDERAL PROHIBITION.—No agency of the Federal Government may engage in prohibited conduct.

(c) PRIVATE RIGHT OF ACTION.—The owner of any real property acquired by prohibited conduct that results in the prohibition under this section of Federal funds or financial assistance may, in a civil action, obtain injunctive and declaratory relief to enforce that prohibition.

(d) APPLICABILITY.—This section applies to any prohibited conduct—

(1) that takes place on or after the date of enactment of this section; or

(2)(A) that is in process on the date of enactment of this section; and

(B) for which title has not yet passed to the relevant entity.

Mr. CRAIG. Mr. President, the bill talks about land, it talks about valuable farmland, it talks about valuable grazing land, and the issue is eminent domain. As we all know, the issue of eminent domain was elevated greatly as an issue following a highly controversial 2005 Supreme Court decision known as Kelo vs. The City of New London. Since that decision, we as a nation have allowed State governments and local municipalities to utilize eminent domain to force landowners to yield their property to private development.

That is a new phenomenon in our country. That has not been and was not the historic use of eminent domain. We are talking about land that maybe generationally has served America's farmers and ranchers for the purpose of food and fiber.

As shown in this picture, here is an example of a beautiful piece of pastureland in Camas County, ID, for which one day the county and/or a city in the area could decide: Oh, gee, we like it for open space. It is open space today. As I would suggest, the economics of today would suggest it will remain open space for a long time.

But since the Supreme Court's Kelo ruling, farmers and ranchers in particular have become vulnerable to State and local municipalities taking their property for economic development, open space designations, or other purposes.

The recent, most vivid happening occurred in the State of Pennsylvania, where over a 3-year period in Pennsylvania, a county government has been in a struggle with a local family over an attempt on the county's part to purchase a section of their farmland. When the negotiations failed, the county moved to seize the land using eminent domain, with the goal of turning the land into a park or an open space along, I believe it was, the Susquehanna River. Very recently, after 2 years of dispute over the value of the land, the county withdrew its request, leaving the family without any kind of deal, with the family having spent thousands of dollars and years on endless amounts of litigation and court costs. There were no winners, but the family that had the farm still owns the farm.

In the words of the American Farm Bureau's president, Bob Stallman—he says it this way, and I think he says it accurately—No one's home or ranch or ranchland is safe from government seizure because of the Kelo ruling.

We are now increasingly hearing of incidents in which States and local governments may be pushing the boundaries of what our constitutional power was designed to accomplish. I read often of farmers and ranchers being forced to fight to save their land from local governments looking to take it. The Pennsylvania decision, of course, is a great example of that. I believe we in Congress need to bring back common sense in determining when we use the power and what it is appropriately used for; and, of course, I am talking about the power of our Constitution in respect to eminent domain. What are we talking about when we talk about common sense in State and local governments, what they should or should not do: Does it make sense to take open space out of the private sector and make it open space in the public sector by simply a taking, if you will, by the power of eminent domain? There are plenty of ways to assure that farmland and grazing lands stay as open space if the county or the government wishes to reward the landowner and establish a relationship with that landowner for the purpose of keeping that space open and available. But just to use the power of government for the purpose of crushing that private property owner's right is simply wrong.

American Farmland Trust reports that every minute of every day, America loses two or more acres of farmland, and the rate is increasing as our population grows and expands. This farm bill and what it embodies now will tell you that farmland will probably become increasingly more valuable for the production of food and fiber. In many instances, we don't have an acre to spare. When our county governments decide they want to take it for the purpose of simply changing its ownership, that is greatly frustrating.

Additionally, many of our parks in this country are facing major budgetary shortfalls. To unnecessarily add more parks using eminent domain makes the problem worse, and to take private land to do so simply makes no sense. If the city wants to create a park, go find a willing seller and a willing buyer. That is the way it has been done historically—not to use the power of eminent domain given them, if you will, by the Kelo decision.

My amendment is very simple. For this reason, in offering it, the amendment will deter State and local governments from taking working agricultural land against the will of the landowner only to designate the same land as open space for parks and similar purposes. It is a very targeted amendment. It addresses only cases in which private working agricultural land is taken and turned into open space—a park or a preservation or a conservation area.

Listen, fellow Senators: It does not prevent States and local governments from exercising their right of eminent domain. What we are talking about is that it does not prevent nor deter the use of eminent domain such as taking for what we have always viewed as a legitimate public purpose: power lines, schools, and similar projects of public value; rights-of-way, when necessary, for roads and all of that type of use. It does not even tackle the issue of taking private land for private economic development. That is the Kelo decision. That fight, I have to say, is probably for another day. I hope my colleagues of the Judiciary Committee would grab the value of private land-ownership in this country and change and allow us to work our will on the law and not give municipalities and local governments the right of eminent domain over economic development, for a private purpose. But, as I say, that is for another day and another purpose.

What does this amendment do? It creates a strong but targeted financial disincentive for the local governments to get involved. This will cause State and local governments to stop and think when considering forcibly taking the working land of a farmer or a rancher in order to keep that property as open space. Every farmer and rancher reserves the right to voluntarily, of course, enter into an agreement; as I mentioned earlier, a willing seller, a willing buyer, into a land trust for the value of keeping land private and all of those types of things but to allow it to remain as it is for the purpose of openness. That is already going on. That already has well established law as it relates to how that land gets used.

I believe land preservation is a worthy cause. However, farmers and ranchers should not be forcibly removed from their lands simply to prevent them from making a personal decision about their private property sometime out into the future.

Let me end by saying it is necessary for Congress to discourage the illogical and unwarranted use of eminent domain. I think that is very clear. Many of us were surprised by the Kelo decision, and we saw new precedent being set as it relates to government's use of eminent domain. I believe it is both illogical and unwarranted to forcibly take working agricultural land only to designate it as land as an open space or for a similar purpose. A farm bill is an appropriate vehicle to accomplish this goal to protect our private property rights and our Nation's farmers and ranchers, and I urge my colleagues to support this amendment.

Let me thank Cori Whitman on my staff for working this issue. I also note the American Farm Bureau Federation, the National Cattlemen's Beef Association, the Public Lands Council, and many others are recognizing the risk and the threat to private operating agricultural properties and are supporting this amendment to become policy in the new agriculture policy embodied in this bill.

I thank my colleagues for listening. I hope to gain their support as we work this amendment through the process over the balance of this week.

Mr. President, I yield the floor.

AMENDMENT NO. 3549 TO AMENDMENT NO. 3500

Mr. THUNE. Mr. President, I ask unanimous consent to call up amendment No. 3549 on behalf of Senator ROBERTS and ask that it be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for Mr. ROBERTS, proposes an amendment numbered 3549.

Mr. THUNE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 3549

(Purpose: To modify a provision relating to regulations)

Section 10208 (relating to regulations) is amended—

(1) in subsection (a), by striking the subsection designation and heading; and

(2) by striking subsection (b).

Mr. THUNE. Mr. President, I believe the Senator from New Mexico has an amendment that he wants to speak to that both Senator SALAZAR and I are cosponsors of.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, is an amendment in order or do I have to move to set aside an amendment in order to offer one?

The ACTING PRESIDENT pro tempore. Unanimous consent is required to set aside the pending amendment.

Mr. DOMENICI. I ask unanimous consent that it be set aside so that I may proceed with a different amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3614 TO AMENDMENT NO. 3500

Mr. DOMENICI. Mr. President, I rise to call up amendment No. 3614.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 3614.

(The amendment is printed in the RECORD of Tuesday, November 13, 2007, under ''Text of amendments.'')

Mr. DOMENICI. Mr. President, I think there are a number of people who want to cosponsor this amendment, but I will handle those later—except for the two Senators who are here; I ask that they be original cosponsors at this time, as well as the distinguished Senator from Idaho, Mr. CRAIG.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I will try to be as brief as I can. A couple of weeks back there was much talk about the need to keep only relevant amendments in order on this farm bill. While there was much left to interpretation of what exactly ''relevant amendments'' mean, there can be no question that the Senate should debate and vote on my amendment.

This farm bill is called the Food and Energy Security Act of 2007. I cannot think of an amendment more relevant to the economic security of the American farmer and energy security of the American people than an amendment to increase the renewable fuels standard. Since we passed the first ever renewable fuels standard in the Energy Policy Act of 2005, of which I was proud to be the floor manager and the leader, we have seen a surge in ethanol jobs and a surge in the construction of plants.

In 2006 alone the U.S. ethanol industry supported the creation of 160,000 new jobs while producing 5 billion gallons of ethanol. These are American farm jobs which help produce American fuels and help reduce our dependence on foreign oil. We are not aware of this happening because we have a gigantic country. As for 160,000 new jobs and 5 billion gallons of ethanol being added to the American workplace, that is happening because of the gigantic disparity that has occurred in the cost of oil now versus a year and a half or two ago. That is why there is so much activity in foreign countries where we have seen a whole country saying: We are going to build a brand-new country from top up full of hotels and motels, banks, and the like. That is oil money. That is the disparity between the price of oil they are charging us now and what it was worth sometime ago, and all that left over is going into the hands of those who produce crude oil and sell it to us. We might as well understand that is not helping America.

People say: Well, it isn't hurting us yet. They still have—they are buying up our bonds. Well, I believe it is hurting us. I believe it is part of the crisis—problem with the dollar—not crisis yet. It is also part of the problem with the gross domestic product of the United States in that it is not going to be as buoyant in the future because so much of our basic wealth is going out of our country, and the price of oil that we are paying to whatever country produces it and sends it to us.

Now, what my amendment does is changes—sets an annual requirement for the amount of renewable fuels used in motor vehicles, homes, and boilers. It will require that our Nation use 8.5 billion gallons of renewable fuels in 2008 and progressively increasing to 36 billion gallons by 2022. Now, you understand wherever we use the words ''renewable fuel,'' that means something else other than the crude oil that I have just been talking about. It means it is getting produced here or under our control.

Beginning in 2016, an increasing portion of renewable fuel must be advanced biofuels. Beginning in 2016, increased cellulosic ethanol—advanced biofuels include cellulosic ethanol, biodiesel, and other fuels derived from unconventional biomass feedstocks, like sorghum. The required amount of advanced biofuels begins at 3 billion gallons in 2016 and increases to 21 billion gallons by 2022.

Advanced biofuels do not have many of the challenges that conventional ethanol does. The inclusion of advanced biofuels strikes a balance that will allow America to begin diversifying our fuel supply, both in the short term and the long term. That is why when supporting these same provisions in the Energy bill, the Renewable Fuels Association said they ''strike the right chord, '' noting that ''such an investment in our Nation's energy future promises to spur the creation of new, good-paying jobs'' across our land.

The amendment I seek to offer and that I have offered consists of the very same provisions that passed the Senate in June during consideration of the Energy bill—the then-Energy bill. That was not the Energy Policy Act. It was the next major bill. Some may ask, then: Why do I seek to offer the amendment on the farm bill? My answer is threefold.

One, it is clear that the Energy bill has slowed down, largely because the House has passed two major provisions—a tax increase and a renewable portfolio standard—that are untenable to many in the Senate, and they have slowed the bill down. They have brought forth a discussion from the President of the United States that is unequivocal; that if those two provisions are in the bill, he will veto the bill. That is the renewable portfolio standard and the tax increases that are in the House bill. They are not only untenable to the Senate, we ought to make the point over and over that they are untenable to the President.

So what good is it to have that bill and say we are going to do it or else? What is the ''or else?'' We are going to do nothing. We are going to pass something that will never become the law. I wish we could do something different so we would not have to adopt this Domenici amendment because it will be adopted on the other bill where it already lies and languishes.

Second, the House Energy bill in many respects weakens the renewable fuels standard in the Senate Energy bill. Besides, if the Senate makes progress on passing the Energy bill and getting it signed into law, there would be nothing to prevent a conference from simply removing this then unnecessary provision.

Third, this amendment is relevant to the farm bill and necessary now to reinvigorate an ethanol industry that is looking to Congress to extend this mandate as soon as possible.

Mr. President, in one sense, we have been a victim of our own success. Thanks to the 2005 Energy bill, rural America has answered the call for increased ethanol production. In fact, we have now exceeded the original mandated fuel in our fuel mix. For example, in 2006, the ethanol standard was 4 billion gallons. I think the two Senators on the floor played an active role in that and are fully aware of that. In fact, our domestic production of ethanol is 5 billion, far exceeding the billions of gallons we directed. We can do more, a lot more, and the American farmer is looking for Congress to do more.

Over the last year, the price of ethanol dropped nearly 40 percent. The reason for this is simple economics. We have an increased supply and diminished demand in the marketplace. As a result, the construction of new plants has been delayed, meaning new job growth has been diminished and rural communities are looking to us to take action. We cannot wait for the Energy bill while rural communities are losing their opportunities. This amendment is not simply just relevant to the farm bill, it is necessary.

I ask my colleagues to support this bipartisan amendment. I further ask our leadership go to work today, which I am sure they will, and tomorrow on the Energy bill that went to the House. It was sent back to us not as a bill but rather as a message, and it does not do justice to the biofuels for energy. They ought to fix that and, at the same time, take the taxes out and take the 15-percent electricity mandate for alternative fuels.

I ask sincerely that our distinguished leader take the lead in that and see that gets done quickly.

I yield the floor and thank the Senators for letting me proceed.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, very briefly—because it is the other side's opportunity—I thank the ranking Republican on the Energy Committee for bringing this amendment forward. It fits well in the farm bill. Last Friday afternoon, I spoke to that again. Clearly, this is an opportunity we cannot pass by. I would like to see it in the Energy bill and see this concept grow to 2022 and get us to 36 billion gallons. Corn based and cellulosic is absolutely critical. This is a market we created by public policy and with public support. There is no question about it. This is a market that can continue to grow and develop, as long as Government advances it and stays out of its way.

I thank the Senator from New Mexico for bringing up the amendment. It is appropriate on the farm bill. I hope our colleagues will consider it as a plus to the overall growth of domestic American agriculture.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I thank the Senator from New Mexico

for bringing the RFS amendment to the floor. I urge my colleagues to figure out a way for us to move forward with the renewable fuels standard we in the Senate embrace because it is the right way to move forward with an RFS.

When you look at many of the concepts we have dealt with in terms of growing our energy independence, the fact is the renewable fuels standard is key in terms of how we get there. We worked long and hard in the Energy Committee to come up with the concepts included in the Energy bill. In my mind, when I look at the Energy bill, which is being discussed in its final forms in the negotiations between the House and Senate, there were five pieces to that bill. I believe we can get to a point where we have a bill that becomes a final and good energy bill, which passes the Congress and gets signed by the President.

I think we are close, as I understand it, to moving forward with CAFE standards in the legislation that makes sense to the people who are leading this effort in both Chambers. The biofuels program, which at its heart is the RFS amendment Senator DOMENICI was talking about, is something that is essential and a key component to having a good energy package.

The carbon sequestration provisions we passed out of the Senate, I understand, have been accepted by the House. It is important to move forward with that. I know conversations are going on with respect to the renewable portfolio standards. I wish to make a quick comment on the renewable fuel standard. We spent a tremendous amount of time dealing with that issue in the Energy Committee because it was so important on how we move forward. There was a recognition among the witnesses before the committee that there was a limitation with corn-based ethanol. The scientists and the experts are telling us we can get to about 15 billion gallons of production with corn-based ethanol. But we know the future for America, and for us being able to produce ethanol all across this country, is based on the next generation of advanced biofuels, and that is cellulosic ethanol. That is why this RFS makes so much sense and we should adopt it and move forward with it, whether it be in the farm bill or in the Energy bill.

The RFS we passed out of the Senate Energy Committee, with the leadership of Senator BINGAMAN, a great advocate and proponent of the RFS in the Energy bill, contemplates that we will produce 21 billion gallons of advanced biofuels. That is 21 billion gallons of cellulosic ethanol, the alcohol-based ethanol I spoke about earlier today. So I hope that, as these discussions move forward in the week ahead and we look at crafting a good energy bill for this country, the renewable fuels standard Senator DOMENICI spoke about in his amendment is included in that energy legislation. If not, it seems to me we may want to look at including it in the farm bill because it is so important to the future of rural America and to us being in a position where we can help grow our way to energy independence.

I yield the floor. My friend from South Dakota has additional comments.

Mr. THUNE. Mr. President, I, too, acknowledge the good work of our colleague from New Mexico, Senator DOMENICI, on this issue. It largely is a result of his good work in 2005. Senator SALAZAR is on the Energy Committee. I was, at the time, on the Environment and Public Works Committee, which worked to get the first ever renewable fuels standard put into law. That was a monumental breakthrough in terms of renewable energy production in this country.

If you look at the way the market has responded to that, the story has been nothing less than remarkable. In 2005, we set a goal of reaching 7½ billion gallons of renewal fuel production by 2012. We will achieve that by the end of this calendar year, 2007. South Dakota will have, on its own, a billion gallons of ethanol production reached by the end of 2008.

This is a great success story not only for agriculture and for the farmers and the rural economies that benefit but for our environment because it reduces greenhouse gases. It is a great success story also in terms of lessening our reliance upon foreign sources of energy. I mentioned the statistic earlier: 170 million barrels of oil were displaced by the amount of ethanol production in this country. That saved $11 billion that we would have shipped to one of those petro economies elsewhere around the world that Senator DOMENICI referenced in his remarks.

So the renewable fuels standard that passed in 2005 was a breakthrough; it was a milestone piece of legislation in terms of launching this industry. But what is remarkable about that is we are up against the lid that was set in that 2005 bill of 7.5 billion gallons.

What is happening now is you have a lot of those who would invest in ethanol production in this country pulling back, not knowing what the future of the industry is. The amendment offered by the Senator from New Mexico, of which Senator SALAZAR and I are cosponsors, would increase the renewable fuels standard in 2008 to 8.5 billion gallons, which ramps it up in 2022 to 36 billion gallons. It is an amendment I believe is desperately needed. We hoped it would be included in the Energy bill. There is a version of it in the Energy bill. It would be better than what we have today.

We believe the amendment offered by the Senator from New Mexico is a far better solution, superior to what is proposed now in the Energy bill. I hope we could at least get the language the Senator from New Mexico has put forward included in the Energy bill, or adopted to the farm bill that is under consideration right now. It is that important to the rural economy, to agriculture, and, frankly, there isn't anything we do, next to the production title of the farm bill, that impacts agriculture more than does the renewable fuels standard, to increase it to 36 billion gallons by 2022, relying largely on advanced biofuels, cellulosic ethanol. To help us get there, those are all important things to have.

One comment regarding the Energy bill. There is a renewable fuels standard included in that. There are a couple of troublesome provisions to many who support the industry. One allows the EPA Administrator to essentially modify and grant waivers to the renewable fuels standard, dependent upon ''significant renewable feedstock disruption or other market circumstances.'' In other words, the EPA Administrator has total discretion when it comes to a waiver of this renewable fuels standard in the Energy bill that is currently pending. So the language, as proposed by the Senator from New Mexico, would be far superior in terms of what this industry needs in terms of market signals and certainty going forward. So whether that is included in the Energy bill or in this farm bill, it seems that ought to be the direction in which we move in this industry.

The other thing I will mention by way of importance, in terms of renewable energy, is not only the renewable fuels standard, which is critical to those who invest in this industry, but that Congress is going to send a message that the policy incentives put into place in 2005 are going to be extended and, in fact, expanded; second, that we begin to look at increasing the blends. Right now, about 50 percent of the gasoline in this country is 10 percent ethanol. Because of infrastructure constraints, it is difficult to see us getting further than 11 to 12 billion gallons of ethanol produced and marketed in this country at the 10-percent level.

If we were to increase the blends to 20 or 30 percent, it would dramatically increase the market for ethanol in this country. Studies are currently underway by the EPA and the Department of Energy that I believe will in time demonstrate that not only does ethanol not impact materials compatibility, drivability, and not only does it not affect in any way or disadvantage emissions, relative to 10 percent ethanol, I think a lot of studies are actually finding that, ironically, the mileage is better at E20 than even traditional gasoline. So those studies are in the works. When they are complete, I hope we can move quickly to implement higher blends. That is a critical component in the solution to the renewable fuels industry in this country and to lessening our dependence upon foreign sources of energy.

Every gallon of ethanol, every bushel of corn we are buying from an American farmer means that many fewer dollars we are sending to some petronationalistic economy somewhere else in the world whose intentions to

the United States, as I said, very well could be hostile.

This is an important amendment. I hope as the farm bill debate continues this week and these amendments that are currently pending are disposed of in one form or another, if we do not get a vote on this amendment that we can get the amendment accepted so that we have this marker in the farm bill in the event something should happen that would not permit the Energy bill to pass and, just as important, getting language in the renewable fuel standard that is better than what we see currently in the Energy bill with regard to the waiver authorities that exist for EPA in the current Energy bill and the RFS is included in that.

I do not see any other speakers at this moment, Mr. President, so I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NOS. 3674, 3673, 3671, 3672, AND 3822 TO AMENDMENT NO. 3500

Mr. THUNE. Mr. President, I ask unanimous consent on behalf of Senator GREGG to call up amendments Nos. 3674, 3673, 3671, 3672, and 3822.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3674

(Purpose: To amend the Internal Revenue Code of 1986 to exclude discharges of indebtedness on principal residences from gross inicome, and for other purposes)

At the appropriate place, insert the following:

SEC. _____. DISCHARGES OF INDEBTEDNESS ON PRINCIPAL RESIDENCE EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 108(a) is amended by striking ''or'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', or'', and by inserting after subparagraph (D) the following new subparagraph:

''(E) the indebtedness is qualified principal residence indebtedness which is discharged before January 1, 2010.''.

(b) SPECIAL RULES RELATING TO QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.—Section 108 is amended by adding at the end the following new subsection:

''(h) SPECIAL RULES RELATING TO QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.—

''(1) BASIS REDUCTION.—The amount excluded from gross income by reason of subsection (a)(1)(E) shall be applied to reduce (but not below zero) the basis of the principal residence of the taxpayer.

''(2) QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.—For purposes of this section, the term 'qualified principal residence indebtedness' means acquisition indebtedness (within the meaning of section 163(h)(3)(B)).

''(3) EXCEPTION FOR CERTAIN DISCHARGES NOT RELATED TO TAXPAYER'S FINANCIAL CONDITION.—Subsection (a)(1)(E) shall not apply to the discharge of a loan if the discharge is on account of services performed for the lender or any other factor not directly related to a decline in the value of the residence or to the financial condition of the taxpayer.

''(4) ORDERING RULE.—If any loan is discharged, in whole or in part, and only a portion of such loan is qualified principal residence indebtedness, subsection (a)(1)(E) shall apply only to so much of the amount discharged as exceeds the amount of the loan (as determined immediately before such discharge) which is not qualified principal residence indebtedness.

''(5) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term 'principal residence' has the same meaning as when used in section 121.''.

(c) COORDINATION.—

(1) Subparagraph (A) of section 108(a)(2) is amended by striking ''and (D)'' and inserting ''(D), and (E)''.

(2) Paragraph (2) of section 108(a) is amended by adding at the end the following new subparagraph:

''(C) PRINCIPAL RESIDENCE EXCLUSION TAKES PRECEDENCE OVER INSOLVENCY EXCLUSION UNLESS ELECTED OTHERWISE.—Paragraph (1)(B) shall not apply to a discharge to which paragraph (1)(E) applies unless the taxpayer elects to apply paragraph (1)(B) in lieu of paragraph (1)(E).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness on or after January 1, 2007.

AMENDMENT NO. 3673

(Purpose: To improve women's access to health care services in rural areas and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services)

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 3671

(Purpose: To strike the section requiring the establishment of a Farm and Ranch Stress Assistance Network)

Strike section 7042.

AMENDMENT NO. 3672

(Purpose: To strike a provision relating to market loss assistance for asparagus producers)

Beginning on page 254, strike line 19 and all that follows through page 255, line 22.

AMENDMENT NO. 3822

Purpose: To provide nearly $1,000,000,000 in critical home heating assistance to low-income families and senior citizens for the 2007-2008 winter season, and reduce the Federal deficit by eliminating wasteful farm subsidies)

Strike subtitle A of title XII and insert the following:

Subtitle A—Low-Income Home Energy Assistance

SEC. 12101. APPROPRIATIONS.

In addition to any amounts appropriated under any other Federal law, there is appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2008, $924,000,000 (to remain available until expended) for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), notwithstanding the designation requirement of section 2602(e) of such Act (42 U.S.C. 8621(e)).

SEC. 12102. DEFICIT REDUCTION.

It is the sense of Congress that the difference between—

(1) the amount that would be made available under subtitle A of title XII (as specified in Senate amendment 3500, as proposed on November 5, 2007, to H.R. 2419, 110th Congress); and

(2) the amount made available under section 12101,

should be used only for deficit reduction.

Mr. THUNE. Mr. President, I ask unanimous consent that the amendments be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3823 TO AMENDMENT NO. 3500

(Purpose: To provide for the review of agricultural mergers and acquisitions by the Department of Justice, and for other purposes)

Mr. THUNE. Mr. President, on behalf of Senator GRASSLEY, I ask unanimous consent to send to the desk an amendment and that it be immediately considered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows.

The Senator from South Dakota [Mr. THUNE], for Mr. GRASSLEY, proposes an amendment numbered 3823.

Mr. THUNE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I wish to take a few minutes to speak generally about the importance of the farm bill. I wish to speak about three aspects of the bill. The first has to do with rural America, which is a part of what I have called ''the forgotten America'' since I came to the Senate nearly 3 years ago. Second is to speak briefly about the importance of the conservation provisions which are included in this historic legislation. And finally, I wish to speak generally about some of the renewable energy provisions that are laid out in this bill.

First, with respect to what we see happening in rural America, as we see on the chart behind me, there is a lot of red and a lot of yellow. Those are counties, some 1,700 counties in the United States of America, which have actually declined in population between the years 2000 and 2006.

What happens around this country, as we look at the macroeconomic statistics that affect the United States of America, everybody says that all is hunky-dory and things are going very well. The fact is, for a long time when we look at places in rural America, there are counties and communities that continue to decline in their economic well-being, and the very vitality of rural America is threatened. When the vitality of rural America is threatened, the food security of this Nation is also threatened. That is why when we have legislation such as the legislation before us, the farm bill, we see Democrats and Republicans coming together, many of us from rural States, many of us wanting to be champions of

rural America which we believe is so important, we see Democrats and Republicans coming together to say this is a bill which is critical for our future and a bill we must have.

When we look at those red parts of the United States that are on this map, they are counties, and the people who live there are suffering. Some of them are small counties, some of them are huge counties from a geographic point of view. What we will find in those counties will be people who are hard workers and who on average make less than $10,000 per capita than their counterparts who happen to live in the bigger cities. That is a $10,000 differential in terms of their per capita income.

What we will find in those counties is also a disparity in health care. There is less health care available to people who live in those counties than people who happen to live in the larger metropolitan areas.

We also find a higher cost of living with respect to the prices paid for fuel and a whole host of other items in many of these rural communities.

So I hope, as we work before the Christmas break, that we can understand this legislation is very important to the forgotten America. For me, what I like to do when I travel around the 64 counties of my State, is I like to go to many of these places out in rural Colorado where I know communities and counties are suffering.

We have 64 counties in my State of Colorado. It is a large State, not much different than South Dakota in many ways. There are many places where one can drive down the main streets of these communities that were thriving a few years ago and now see half of the main street boarded up, and we see the pains of an economy that is suffering.

The next picture I am putting up is a picture of Merino, CO. Merino, CO, as we can see, is a town in my State which is not having the best of economic times. I would say at least half, perhaps three-fourths, of the main street in Merino, CO, today is either for sale or has many of its commercial establishments boarded up in the way that is depicted in this picture behind me. It is not only Merino; it is lots of other places.

When you get out into the eastern plains on our major interstate corridors and the town of Brush, CO—here is the town of Brush, CO. Again, this is the main street of Brush, CO, with one of its important buildings for sale. If this was the only building on the main street of Brush, CO, that was for sale, one would say that happens all the time; we often see real estate for sale. What happens is, when we go into the main street of Brush, CO, there is a huge percentage of the buildings on that main street that today are for sale. This is a typical picture of community after community across nearly a thousand counties of the United States of America.

I hope one of the statements we can make together as Democrats, led by Senator REID, and as Republicans, led by Senator MCCONNELL, is that we do care about this forgotten America and that we are willing to invest in this forgotten America through the passage of this farm bill.

Secondly, I wish to speak about the conservation provisions of this farm bill. All of us who have followed the history of farm programs and the history of conservation in the United States of America know there is no greater champion for conservation than Senator TOM HARKIN. He has been a champion of the conservation programs in this farm bill from day one. This farm bill before the Senate today reflects very significant additional investments in conservation.

As my friend from South Dakota said earlier in his comments when talking generally about the farm bill and what it has done for hunters, he said there were 10 million pheasants in the State of South Dakota. That is an incredible contribution for people in our country who love to hunt. The Presiding Officer is a great hunter. I am sure he would love to go to South Dakota and get some of those 10 million pheasants. The conservation programs contribute greatly to the quality of life in America.

For my life, much of it spent as a farmer and as a rancher, I have always said that farmers and ranchers are some of the best environmentalists because they truly understand the importance of fighting for land and for water. They know that at the end of the day, unless they take care of the land and water they depend on, next year their livelihood is going to be taken away from them. So they know they have to take care of their soil. They know they have to take care of the water. They know they have to take care of that place which is the very essence of their livelihood.

This farm bill is a historic farm bill in terms of conservation because it invests more in conservation, in all the traditional programs such as the Conservation Reserve Program, the grasslands program, and a whole host of other programs that will let us make sure we continue to protect the land and water of America.

In this picture behind me, we see one of the conservation programs funded under the EQIP program in my State of Colorado. It is an irrigation line ditch to make sure that water is not being wasted in the arid part of my State. For those of us from the western part of the United States, we know that water truly is the lifeblood of our community. They say in Colorado that whiskey is for drinking and water is for fighting. That is because we know how precious the commodity of water is in the arid West.

Programs such as this conservation program under the EQIP program make sure we are being as efficient as possible in how we use water in our communities.

It goes beyond how we use water for irrigation, which is what is depicted in that picture, but it is also making sure we are helping ranchers with water tanks and cross fencing so we can make the most use of our resources. Here is a picture of an EQIP project which has put in livestock water tanks and also has put in cross fences in the northern part of my State. It is another example of one of our conservation programs.

The next picture is of a wetland reserve program near Nathrop, CO. This is a picture of a wetland which was restored under the WRP that has been included in this farm bill and has been significantly enhanced. We know the importance of wetlands not only to wildlife but also to water quality. This wetland, which shows the Rocky Mountains with its snow in the background, is one of those wetlands that has been made possible through the investments we are making in the farm bill.

Finally, in the conservation area, there is also a tremendous amount of training that takes place. This picture behind me is of farmers getting together, going through a training seminar in Colorado to learn more about how they can take care of their farms. It is a very successful program which is not only a program underway in my State but also in many other States around the country.

I wish to spend a few minutes talking a little bit more about the energy parts of this bill. I wish to talk about how important it is to my State.

When we look at what has happened with the energy challenges we face in this country, I do believe that is one of those areas where this Congress has made significant, positive action over the last several years. We started it through the passage of the 2005 Energy bill, which was led by Senator DOMENICI and Senator BINGAMAN. I had the privilege of sitting on that committee through many hearings that ended up with the 2005 Energy Policy Act we passed in the Senate. Last year, we passed another Energy Policy Act that opened up lease sale 181 in the gulf coast and created the Land and Water Conservation Fund which is a very important program.

This year we have an additional opportunity to move forward with passage of new energy legislation which we are all hoping happens maybe as early as this week.

In my State, a lot has happened in the last 2 years. When we look at all the different aspects of renewable energy, we have done more in Colorado in a very short period of time than I have seen happen with almost anything else that has come to my State. All of us probably in this Chamber would like to claim that our respective States are becoming the renewable energy capital of the United States. In my State of Colorado, it is happening in a lot of different ways, in part through the national legislation we passed in the Congress and in part through the initiative of the voters of the State of Colorado through the passage of an RPS which was adopted by the voters in 2004.

This is a picture of a wind farm located in Prowers County in Lamar, CO. It is one of several wind farms which have sprouted up across my State in the last several years. Some people may say these wind farms are important, but how much are they doing? In my State, by the end of the year 2008, our hope is that we will have about 1,000 megawatts of power being produced from these wind farms that have sprouted up throughout the eastern plains and northern Colorado. And 1,000 megawatts of power, for those who happen to be watching today, if we want to put that in layman's terms, is approximately the amount of electricity that would be generated from three coal-fired powerplants. Well, in my State of Colorado, 2½, 3 years ago, there was almost zero electrical generation coming from wind. Today, we are on the verge of approaching a thousand megawatts of electrical power from wind. So we are just beginning to tap that potential.

And it is not just from Colorado. I know in the plains of both Dakotas, as well as in Wyoming and a whole host of other States, the State of Texas and others, we see wind energy becoming a very integral part of the portfolio for renewable energy for our future. This farm bill creates significant incentives for us to continue to enhance our efforts with respect to wind power.

Here is another quick example of a smaller set of wind turbines that are now up and functioning in the State of Colorado. We have included in this legislation amendments that will allow for a credit to be provided for what we call small wind microturbines. Those are microturbines that will produces less than 50 megawatts of power. Actually, that is less than 50 kilowatts of power. And with those small microturbines there will be enough electricity generated from these small wind generators to be able to provide the energy that is needed at a farm or a small industrial park or those kinds of smaller uses.

So there is a whole future, which is a very positive future, on wind energy that is being embraced in this legislation. And as we have spoken about energy on the floor this afternoon, we also have spoken about ethanol and cellulosic ethanol.

Several years ago—it was less than 3 years ago—after having been sworn in with my colleague from South Dakota, I went back to Colorado and said: There is a lot of excitement from many of my colleagues about ethanol and about the future of biofuels in America. I want to go and visit an ethanol plant somewhere in my State of Colorado.

I was told at the time that we did not have ethanol plants in my State of significant size. Well, that has changed dramatically just in the last 2 years, in part because of the passage of the 2005 Energy Policy Act.

Today, we produce over 100 million gallons of ethanol a year. We are at 100 million gallons of ethanol per year. The picture behind me is a picture of an ethanol plant in Sterling, CO. When I went there 2 years ago, there was nothing but an empty field outside of the town of Sterling. The town of Sterling is located in a place that is part of that America that struggles to keep going forward.

I went back a year later and what is now a $50 million ethanol plant has been constructed there. It is an ethanol plant that has produced jobs for the local community. There are over 20 workers who work at this ethanol plant all the time. It has been good for the farmers because they have an alternative market for their corn which they bring to this ethanol plant. It has been good for the cattle feeders because they take the feedstock after the ethanol has been taken, then they feed it to the cattle in Sterling, CO. So this ethanol plant is only one of four ethanol plants that we now have throughout the State of Colorado, and it is our hope in the years ahead that we will have many more of these kinds of plants that we will actually see in construction.

But as we know, through the testimony we had in the Energy Committee, the testimony we have had in front of the Agriculture Committee as well, there are limitations as to how much ethanol we can actually produce through these kinds of plants, where that ethanol is derived from corn. That is why these advanced biofuels and how we move forward with this renewable fuels standard is so essential. That is why in the RFS that we included in our energy legislation we recognized that there was a 15-billion-gallon limitation that would be coming from these kind of ethanol plants. And, therefore, when we talked about the advanced biofuels, we meant we would get 21 million gallons of advanced biofuels from cellulosic ethanol. And that truly is where the future for America is, in my view, Mr. President, relative to making sure we are able to grow our way to energy independence for our country.

We are now at a point where we are asking our colleagues to come and offer amendments. We have had a number of amendments that were offered and are pending from last week. We have also had a number of amendments which have been offered and are pending here today, and we would invite our colleagues to come down and speak about the farm bill and to offer any amendments they might have.

Mr. President, I yield the floor.

AMENDMENT NO. 3596 TO AMENDMENT NO. 3500

(Purpose: To amend the Internal Revenue Code of 1986 to establish a pilot program under which agricultural producers may establish and contribute to tax-exempt far savings accounts in lieu of obtaining federally subsidized crop insurance or noninsured crop assistance, to provide for contributions to such accounts by the Secretary of Agriculture, to specify the situations in which amounts may be paid to producers from such accounts, and to limit the total amount of such distributions to a producer during a taxable year, and for other purposes)

Mr. THUNE. Mr. President, on behalf of Senator SESSIONS, I ask unanimous consent to call up amendment No. 3596 and ask that it be reported and temporarily set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. SALAZAR. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, we do not have an objection with respect to the amendment which was offered by the Senator from South Dakota.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for Mr. SESSIONS, proposes an amendment numbered 3596 to amendment No. 3500.

(The amendment is printed in the RECORD of Thursday, December 6, 2007, under ''Text of Amendments.'')

AMENDMENT NO. 3569 TO AMENDMENT NO. 3500

Mr. THUNE. Mr. President, on behalf of Senator STEVENS, I ask unanimous consent to call up amendment No. 3569 and that it be reported and temporarily set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for Mr. STEVENS, Ms. MURKOWSKI, Mr. LOTT, and Mr. SMITH, proposes an amendment numbered 3569 to amendment No. 3500.

The amendment is as follows:

(Purpose: To make commercial fishermen eligible for certain operating loans)

On page 778, between lines 2 and 3, insert the following:

(c) COMMERCIAL FISHING.—Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended—

(1) in subsection (a), by inserting ''and, in the case of subtitle B, commercial fishing''

before the period at the end of each of paragraphs (1) and (2); and

(2) by adding at the end the following:

''(c) DEFINITION OF FARM.—In subtitle B, the term 'farm' includes a commercial fishing enterprise.''.

Mr. THUNE. Mr. President, I think we are almost up to our 20 amendments. I don't know of anybody else coming down on our side, although I know of a couple of amendments out there that may get offered. But we are very close to meeting the allocation we have under the agreement, and so I suspect if there are others who want to have their amendments called up, if they can get them down here, we will get them put in the queue and made pending so that when everyone is back tomorrow we can, hopefully, move to consideration based on those amendments, start getting them voted on, disposed of, and, hopefully, get to a final vote on the bill by the end of the week. That is my hope and certainly the hope of the Senator from Colorado, and I hope that is the view that is shared by our respective leaders as well.

I would say, too, again, by way of general observation on the bill, as my colleague from Colorado has talked about, many of the different titles in the bill—and we have both covered a lot of the energy provisions which he has spoken at some length about—the conservation title, the commodity title, and as we were discussing earlier today, 67 percent of the funding of the bill is in nutrition programs, food assistance, and other types of programs; about 9-plus percent in conservation, about 14 percent, actually, in the commodity title, which supports production of agriculture, and then there is a rural development title. But in any event, it is a fairly balanced bill.

I think much of the emphasis on this bill, a new emphasis at least, has to do with what the Senator from Colorado had talked about earlier, and that is the renewable energy industry. I don't know that there are a lot of differences between this bill, if we can get it through the Senate, and what has already passed the House.

There are some things that are different in the two bills, but I think these are very reconcilable bills. And I guess my hope has been all along that we would be able to get a bill to conference and on the President's desk before the end of the year. That may be a little optimistic, but I think it is important we, at least in the Senate, act on our version of the bill, get it passed, clear that hurdle, and hopefully put us on a glidepath to getting a bill signed into law if not by the end of the year, then sometime early next year so that producers can begin to make decisions about next year; that we don't have to go through the exercise of passing an extension of the 2002 bill.

I think we have a good bill before us. And now that we finally have an agreement to move forward with amendments, I hope we can get this bill through the process and perhaps passed by the Senate if not this week certainly early next week, and that will put us on a pathway to getting a bill signed into law by early next year.

As I said before, in addition to the farmers who are looking and anticipating the passage of this bill, and those who depend upon other titles in the bill, the renewable energy industry does need some action on some of the provisions not only in this bill but that are pending in the Energy bill. A renewable fuels standard needs to be enacted either as a part of the Energy bill or the farm bill.

The Senate passed earlier this year as part of its Energy bill a 36-billion-gallon renewable fuels standard by the year 2022. The House did not have a provision on a renewable fuels standard under its version of their bill. After the two sides got together, the Energy bill now contains a renewable fuels standard; although, as I mentioned earlier, one with some provisions and some conditions imposed on it that I think make it less preferable to many of us than the renewable fuels standard amendment that has been offered to the farm bill.

But to the point my colleague from Colorado made about other forms of energy, we, too, in South Dakota have enormous potential to benefit from wind energy. We have wind energy. And I have seen studies—in fact, the National Renewable Energy Laboratory in Colorado suggests that South Dakota is the windiest State in the Nation. We have the best wind for wind energy development, exceeding all other States in the country. Many of our constituents would probably argue that it exceeds the amount of wind and hot air that comes out of Washington, DC, but if you look at where the end wind in this country is generated, it is in that middle section of the United States, and that, too, holds enormous potential for us to get away from depending upon foreign sources of energy.

Many of our constituents in the Midwest rely on fuel oil for their winter heating. You have, of course, a lot of energy that is generated from sources that are less environmentally friendly than wind energy. And so I would hope the provisions in this farm bill that provide incentives for small wind, and then some provisions in the Energy bill that include incentives for larger wind farms and types of projects—production tax credits, the clean renewable energy bond program—that those, too, could get enacted and we could continue to move forward toward the development of more renewable energy in this country and less dependence upon foreign sources of energy from countries that would do us harm.

I again commend to my colleagues, when we get to a final vote, that the energy title of this farm bill is critically important—not to just those who are investors in ethanol plants but, I would argue, to our energy security and to our national security as well.

I don't see anybody else here to offer amendments. If the Senator from Colorado would like to make some comments?

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I note that the unanimous consent agreement under which we are operating in consideration of the farm bill allows for 20 amendments from the Republican side and 20 amendments from the Democratic side. I understand we are, on the Republican side, almost at the number 20 of amendments that have been offered and called up. On the Democratic side, there have been four amendments that have been offered and called up. If any of our colleagues are here and want to come down and help us move this process along, we urge them to come to the floor and offer and call up their amendments.

The fact that we are down to 20 amendments on the Republican side, 20 amendments on the Democratic side, is a very good step in the right direction. There were approximately 300 amendments that were filed on this bill. There is no way in which we were going to work our way through those 300 amendments, so narrowing down that universe in the way we have has been very helpful and hopefully will get us to where we all want to get; that is, to get to a farm bill that can be finalized in this Chamber so we can start working toward getting a farm bill that will help guide the farm policy of this country for the next 5 years.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENTS NOS. 3551 AND 3553 EN BLOC

Mr. THUNE. On behalf of Senator ALEXANDER, I ask unanimous consent to call up two amendments—the first amendment is No. 3551 and the second amendment is No. 3553—and that those amendment also be reported and temporarily set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. SALAZAR. Reserving the right to object, I will suggest the absence of quorum for a few minutes so I can study the amendments.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SALAZAR. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for Mr. ALEXANDER, proposes amendments numbered 3551 and 3553, en bloc.

The amendments are as follows:

AMENDMENT NO. 3551

(Purpose: To increase funding for the Initiative for Future Agriculture and Food Systems, with an offset)

In section 401(b)(3) of the Agricultural Research, Extension, and Education Reform Act of 1998 (as amended by section 7201(a)), redesignate subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and insert before subparagraph (B) (as so redesignated) the following:

''(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall transfer to the Account—

''(i) $24,000,000 for fiscal year 2010; and

''(ii) $25,000,000 for each of fiscals year 2011 and 2012.

Strike section 12302.

AMENDMENT NO. 3553

(Purpose: To limit the tax credit for small wind energy property expenditures to property placed in service in connection with a farm or rural small business)

On page 1465, strike line 6 through page 1469, line 13 and insert the following:

SEC. 12301. CREDIT FOR BUSINESS WIND PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking ''or'' at the end of clause (iii), by adding ''or'' at the end of clause (iv), and by inserting after clause (iv) the following new clause:

''(v) qualified small wind energy property,''.

(b) 30 PERCENT CREDIT.—Section 48(a)(2)(A)(i) is amended by striking ''and'' at the end of subclause (II) and by inserting after subclause (III) the following new subclause:

''(IV) qualified small wind energy property, and''.

(c) QUALIFIED SMALL WIND ENERGY PROPERTY.—Section 48(c) is amended—

(1) by inserting ''; QUALIFIED SMALL WIND ENERGY PROPERTY'' after ''QUALIFIED MICROTURBINE PROPERTY'' in the heading,

(2) by striking ''For purposes of this subsection'' and inserting ''For purposes of this section'',

(3) by striking ''paragraph (1)'' in paragraphs (1)(B) and (2)(B) and inserting ''subsection (a)(1)'', and

(4) by adding at the end the following new paragraph:

''(3) QUALIFIED SMALL WIND ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'qualified small wind energy property' means property which uses a qualifying small wind turbine to generate electricity, installed on or in connection with real property which is—

''(i) a farm (within the meaning of section 2032A(e)(4), or

''(ii) a small business (within the meaning of section 44(b)(1)) located in a rural area (within the meaning of clause (i) or (ii) of section 1400E(a)(2)(B)).

''(B) LIMITATION.—In the case of qualified small wind energy property placed in service during the taxable year, the credit otherwise determined under subsection (a)(1) for such year with respect to such property shall not exceed $4,000 with respect to any taxpayer.

''(C) QUALIFYING SMALL WIND TURBINE.—The term 'qualifying small wind turbine' means a wind turbine which—

''(i) has a nameplate capacity of not more than 100 kilowatts, and

''(ii) meets the performance standards of the American Wind Energy Association.

''(D) TERMINATION.—The term 'qualified small wind energy property' shall not include any property for any period after December 31, 2008.''.

(d) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B)'' and inserting ''paragraphs (1)(B), (2)(B), and (3)(B)''.

(e) PREEMPTION.—Nothing in this section preempts State or local laws regarding the zoning, siting, or permitting of wind turbines.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures after December 31, 2007.

Mr. THUNE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SALAZAR. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, I know there are colleagues on the Democratic side who have amendments they wish to offer. I would be happy to offer those amendments on their behalf, if they would call the cloakroom and let us know. That way we can start getting this list of amendments winnowed down to a workable number. We are on the floor and will be on the floor ready to do business. If they want to come to the floor to offer their amendments, they should do it now. If they want to call the cloakroom and let me offer them on their behalf, I will be happy to do so.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3771 TO AMENDMENT NO. 3500

(Purpose: To amend title 7, United States Code, to include provisions relating to rulemaking)

Mr. THUNE. Mr. President, I hold in my hand the last unanimous consent request. This is the twentieth of the 20 amendments on the Republican side.

On behalf of Senator BOND I ask unanimous consent to call up amendment No. 3771, and ask that it be reported and temporarily set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for Mr. BOND, proposes an amendment numbered 3771 to amendment No. 3500.

(The amendment is printed in the RECORD of Thursday, November 15, 2007, under ''Text of Amendments.'')

Mr. THUNE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SALAZAR) Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I appreciate the Senator temporarily taking the chair for me at this time so I can make a few brief comments on the farm bill. I thank everyone who has been involved in getting us to this point. It has been challenging, but we have a product, as you know, that came out of committee unanimously.

I thank Senator HARKIN and Senator CHAMBLISS for their leadership in bringing us to this point. I also thank Senator CONRAD for his budget expertise that helped get us to this point, and so many other people who have worked very hard to create a product that we all can be very proud of.

We do not only support traditional agriculture, which is very important—people in my State think of automobiles, particularly as we are talking about the energy debate now—but our second largest industry is agriculture. So this is a very important bill from the standpoint of the economy of Michigan.

We have traditional agricultural programs that are supported in this legislation which I am very pleased about. But we also do something very important. We take a step toward the future in this bill in a number of ways.

Also very important to me and Michigan, and I appreciate my colleagues supporting the effort, is to have half of the crops grown by farmers in the United States, fruit and vegetable growers, called specialty crops, included in a very real way for the first time in this farm bill. That is historic. We are talking about many family farmers, folks who are growing the apples and asparagus and the cherries and the blueberries and the oranges and all of the foods we want our children to eat.

We tell our children: Eat your fruits and vegetables. Well, this farm bill for the first time makes a permanent place, a permanent home for those growers. I appreciate my colleagues who have worked with me in order to be able to make that happen.

We also take a turn to the future with alternative energy. I thank the distinguished Presiding Officer from Colorado for his passion around the issue of alternative energy as well as my distinguished colleague from South Dakota for his interest and leadership around these issues as well. We all join together in understanding that we want to be able to say: Buy your fuel from middle America instead of the Middle East. That would create energy independence. It would be great for our

farmers. It is great for new technologies.

We also are very proud to be making the automobiles that will use that new fuel. So this farm bill is an energy and security bill, an effort in a very major way to turn us to that future through various kinds of incentives and supports and research and cellulosic ethanol that we know is the future.

We not only want to make ethanol from corn—and we grow a lot of corn in Michigan, but we also grow a lot of sugar beets, we have a lot of wood byproducts, we have a lot of switchgrass available and other things that we can use for the technology to be developed and supported through this farm bill to be able to create energy.

That is important. This is about the future. I believe part of reform, when we talk about reforming the farm bill, we talk about more focus on our fruit and vegetable growers, more focus on energy crops, more focus on nutrition, and the importance of being able to support our farmers markets and community gardens, the ability for people to have access to nutritious food in the United States.

This is also an important bill for conservation. Again, I know our Presiding Officer cares very much about this issue. Our chairman has been a passionate leader, focusing on conservation. This bill does it in a very real way. I thank the chairman as well for including language that addresses Great Lakes water erosion, soil runoff into the Great Lakes, into our water systems, a very critical issue. I appreciate him including language from a broad strategic effort that was put together with all eight States and our friends in Canada and the administration and others to put together a strategy to protect our Great Lakes waters. Part of that is reflected as it relates to our conservation portion of the farm bill. So there are numerous ways in which this particular legislation, as comprehensive as it is, makes sense.

I would also be remiss if I did not mention rural development. I do not think there is a town in northern Michigan, southern Michigan, in the Upper Peninsula, that has not benefitted by some help with water and sewer or housing development or small business loans or the ability to buy a needed fire truck, to be able to meet rural needs.

I am very proud of the fact that we have expanded and included the broadband access. We know, just as the telephone system was made more valuable by making sure the farmer at the end of the road was able to be connected by telephone, we need to be sure that every person in every corner of the country is connected and has access to broadband. This legislation does that as well.

There are numerous provisions in this legislation that relate to supporting and developing rural America, supporting new technologies, supporting the communities, protecting our natural resources and conservation, focusing on alternative fuels and energy independence at a time when we have never needed it more; also the wonderful partnership that we have established between our nutrition programs, schools, seniors, community programs, and our fruit and vegetable growers who are growing that nutritious food that we want to make sure gets to our families.

I hope we will come together. It is very positive that we finally broke through the logjam, and we are together here on the floor moving forward this bipartisan bill. It is my hope we will be able to move through these amendments and do it in a way that allows us to complete this bill this week and have the Senate's vision for the future of rural America and energy and nutrition, conservation, our support for traditional agriculture, have all of those visions out there together before we leave for the end of the year. This is important what we have done together. It is an important piece of work. I am pleased that we are now moving to that next step. I am hopeful that working together, we will be able to get that done this week.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THUNE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

Mr. THUNE. Madam President, we have had a number of folks here today who have spoken to different aspects of the farm bill. All are relevant, and everybody has a unique interest in this legislation. Many people come to a farm bill representing agriculture States and, therefore, have a keen interest in the commodity title of the bill, that part of the bill that directly affects production agriculture. Many are involved in food assistance programs and, therefore, interested in that aspect.

I have spoken at some length today, as has my colleague from Colorado, about the energy title of the bill which we also believe to be critically important to the future of agriculture and rural economies. I do want to speak to one other aspect of the bill that Senator SALAZAR also spoke to earlier today. That is the conservation title.

One of the aspects of this bill that is as critical to production agriculture as the commodity title is the conservation title. The conservation title of the farm bill comprises only about 9 percent of its total cost, yet it potentially affects more than 350 million acres of land. This is a photo of a piece of ground in South Dakota. This picture was taken in 2007. It is a great example of the role played by the farm bill's conservation title. The best land in this photo is planted with corn, the low-lying wetland area being enrolled in a Conservation Reserve Program. We have an example of crop production and conservation working hand in hand. You have CRP in the foreground, wetland and corn ground in the background. The CRP on this farm and the million-and-a-half acres that are enrolled in CRP in South Dakota add 10 million pheasants and $153 million to South Dakota's economy every single year. This year's record corn crop in South Dakota at 556 million bushels is worth an additional $1.8 billion to South Dakota's farmers.

I wanted to contrast that and focus on another picture taken in South Dakota in 2007. This one actually, believe it or not, was taken in March of this year. If you look at this, at first glance you would believe that was a picture that was taken during the ''dirty thirties,'' the time of the Great Depression. Actually it is the result of native sod in South Dakota that was cropped because crop insurance provided an unintended incentive to convert marginal pastureland or native sod to cropland. This picture sends a stronger message than any words could about the inherent need to take care of our land. The topsoil and the fence line and ditch along this South Dakota field took literally millions of years to create and one dust storm to remove. The damage you see here simply cannot be undone.

A sod-saver provision in the farm bill we are considering will prohibit anyone from converting native sod to cropland. What this sod-saver provision will do is eliminate the incentives found in current Federal farm policy that encourage unwise farming practices which result in the consequences that are shown in this photo.

The next photo is a picture that is an example of some of the native sod that is being converted to cropland in South Dakota. For the past 100 years, millions of acres of prairie have been converted to productive farmland. Most native sod that can be productively farmed in South Dakota and other prairie States has already been converted to cropland. We faced a shortage of money to write this farm bill. I don't believe it is wise to use Federal funds to pay for crop insurance and disaster programs on this type of land. If the farmer who owns this land wants to crop it, wants to farm it, he or she is free to do so. But let's not subsidize it.

The next picture comes from South Dakota as well. This was a couple years ago in 2005. Dust storms, obviously, were not limited to the 1930s. This picture was taken in South Dakota in 2005. Once again, the consequences of unwise land stewardship practices are disturbingly evident. During the 1930s, South Dakota received billions of tons of Kansas and Oklahoma topsoil, much of it still in place in fence lines and fields. The programs we have drafted in the conservation title of this farm bill, if funded adequately, will ensure that Kansas and

Oklahoma farmers no longer see their topsoil blow to South Dakota, and South Dakota farmers will keep their topsoil in their fields and not in the ditches and fence lines, as we see in this picture.

I want to emphasize this one more time: Production agriculture and conservation should not compete. Rather, they should complement each other. Every agricultural area in this country is blessed with productive land and land that needs help to keep from polluting the water we drink and the air we breathe. I ask those who are so critical of this farm bill to take a close look at the conservation title and what it does for all Americans. In spite of the budget cuts that made drafting this farm bill more difficult than writing any other farm bill has been, I am pleased that my colleagues and I have been able to come up with a farm bill with a sound conservation title.

I want to point out once more the benefits of the conservation title of the farm bill. First, it protects and enhances our soil and land. Secondly, it helps provide an economic alternative to placing costly fertilizer, seed, and chemicals on unproductive cropland. It also enhances recreation and boosts local economies, as is true in South Dakota, with a very robust recreation industry that is created by the abundance of pheasants we have had in the past few years and the $153 million that it contributes to South Dakota's economy. I believe it is important that we take a breather from some of the controversy that surrounds farm bill debates and focus on the farm bill's proven capabilities to enhance rural America and to improve our Nation's water and soil. The conservation title of this farm bill will do that. This is one of many reasons that this farm bill deserves the support of our colleagues.

I don't think there is much we do around here in terms of public policy that has as much impact as what we do in this farm bill in the conservation title when it comes to environmental stewardship. The conservation title is so important. The programs that have been enumerated, the Conservation Reserve Program, the Wetlands Reserve Program, the Grasslands Reserve Program, the Environmental Quality Improvement Program, or EQIP, which is used by livestock producers, all these programs are designed to lessen the impact of soil erosion, wind erosion, and improve the quality of our water. The sod-buster provision in this farm bill also moves us toward a policy that discourages those from cropping areas that should not be cropped simply to take advantage of programs such as crop insurance.

So the conservation title in this farm bill is a critically important component of the overall farm bill and one that I hope people, as they look at the farm bill in its totality, will take a very good, hard look at.

Nationwide, without a conservation title, we would have 13.5 million fewer pheasants, 450 million tons of topsoil disappearing every single year, 2.2 million fewer ducks, an additional 170,000 miles of unprotected streams, and 40 million fewer acres of wildlife habitat.

Again, if you look at what can happen when conservation programs and production are used to complement each other—and here, as shown in this picture, is another example of a field in the background and a CRP—or grasslands—in the foreground. But that is the kind of balance we try to achieve in this farm bill.

The conservation title in this farm bill is important. It is only 9 percent of the money, but it impacts 350 million acres of land in this country and adds so much to our economy and to the concerns we have about protecting and preserving our environment.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SALAZAR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SALAZAR. Madam President, I ask unanimous consent that I be recognized to speak as in morning business for as much time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SALAZAR. Madam President, I know for most of the day today we have been speaking about the importance of the 2007 farm bill, which is about food, about fiber, and about our fuel security. It is a very important piece of legislation. We are very hopeful we will be able to get a farm bill completed very soon that can then go to the President for his signature.

I wish to spend a few minutes talking about another piece of legislation which many of us have spent a great deal of time working on over the last year under the leadership of Senator BINGAMAN; and that is the Energy bill which came through this Chamber with a very significant, bipartisan vote and which is a very good bill that moves us forward into the new era of a clean energy economy for the United States that will help us lead the world on how we can embrace the clean energy economy for our country.

From my point of view, when I look at the reasons why we need to move forward with this clean energy economy, it comes down to three very simple reasons. The first is our national security, the second is our environmental security, and the third is the economic opportunities for our country.

On the first of those principles, when we think about what has happened to America since the 1970s and beyond, it is that America has slept. America has slept while we put our heads and our necks in the noose of the powers from foreign countries that are the petropowers that essentially control the oil resources of our country.

Many of us will remember when President Richard Nixon stood before the country and coined the term ''energy independence.'' His view was that because of the formation of OPEC, we in the United States of America were in a position where what we were doing was abandoning the possibility of our independence because of the formation of this very powerful cartel called OPEC. So he said: We have to be energy independent.

Many of us in my generation will remember the nighttime prime-time speech President Carter gave where he spoke about the moral imperative of energy independence. He called it the equivalent of war, that it had the same kind of moral equivalency in terms of us moving forward with energy independence.

Yet what has happened from the 1970s, through the 1980s, through the 1990s, and here as we begin this new 21st century, is the fact that we have gone from a point where we were importing 30 percent of our oil from foreign countries to the point where today, in March of this year, 2007, we imported 67 percent of our oil from foreign countries. That is 67 percent of our oil from foreign countries. So when you think about what has happened, those warnings and the visions that were set out by President Carter and President Nixon simply have not materialized. The United States of America has had a failed policy on energy, and it is high time that we in Washington, DC, in our Nation's Capital, take the bull by the horns and put us in a position where we can move forward with a new ethic and a new set of programs that will get us to energy independence.

Yes, this President—with whom I disagree on a number of different issues—came to the joint session of Congress in his last two State of the Union addresses, and he talked about the addiction of the United States to oil and how it was time for us to get rid of our addiction to foreign oil. Well, he is right in that concept. Now, what we need to do is to have a set of programs that gets rid of that addiction to foreign oil. Our farm bill does that, as my friend from South Dakota spoke about, and as I spoke about earlier, because we have a very robust energy title in this farm bill. But the energy legislation which was passed out of this body a few months ago also is a very good step in that direction because of the significant components that are included in it.

Now, when I look at the foreign policy issues—I, like most of my colleagues in the Senate, have traveled to the Middle East. I have traveled to Iraq three times in the last 3 years. I have been on the border between Lebanon and Israel, looking down at Hezbollah encampments. For all of us who are concerned about what is going to happen to the United States and its future, I think we all recognize the foreign policy implications of our addiction to oil.

I asked myself—when I looked down at the Hezbollah encampments where I saw Hamas activities—where is that money coming from to fuel these armies to be able to be created, and where is the money coming from that is giving to them the kinds of armaments that they have today? The money is coming from us here in America as we pay $3 and $4 a gallon for gasoline or for diesel and $89 to $100 now for every barrel of oil that is imported into this country. We are creating a wealth transfer from America to those petro nations that don't have the interests of the Western World and certainly not the interests of the United States at heart. So we are compromising our foreign policy by this addiction to foreign oil. That inescapable force should bring together progressives and conservatives, Democrats and Republicans, to work together on a real agenda for energy independence.

It was only a short few days after I arrived in Washington that I received a visit from a conservative and a progressive in my office who asked me if I would join a number of my colleagues on an agenda called the Set America Free agenda. Those friends who came to talk to me that day were my former Senator and good friend from Colorado, Tim Wirth, along with C. Boyden Gray, who is one of the best known conservatives in this country. They said it was time for us to start working together—progressives and conservatives, Republicans and Democrats—on an agenda to Set America Free. So the inescapable force of our own foreign policy and our need to be an independent America, that is independent from these forces of the Middle East and Venezuela—it is important for us to make sure we move forward with a strong program on energy independence.

The second principle at stake in the energy legislation which is now under discussion has to do with our environmental security. The time for us to argue about whether global warming is here I think has passed. I think the scientific community concluded long ago that the issue of global warming was a real issue. Yes, we will have debates on the floor of the Senate. There are debates I know that were conducted in the EPW Committee in the Senate just last week about what is the best way to move forward. But I think everyone has concluded we do need to deal with the issue. We do need to somehow formulate the best approach of how we are going to move forward to deal with the reality of global warming because otherwise it puts the planet and puts civilization very much in jeopardy.

So we have foreign policy and our national security, we have environmental security which compels us to act, and then we have the economic security of our Nation and the economic opportunities that a clean energy economy also embraces. We have spoken about some of those opportunities on the floor of the Senate today. Some of those opportunities I have seen blossom in my own State of Colorado over the last 2 years in a way that I am very proud of, but I am also proud of the fact that they are also blossoming in other places around the country. The National Renewable Energy Lab in Golden, CO, is truly one of the crown jewels on renewable energy and efficiency. It is a place which has been visited by Democrats and Republicans alike.

Senator HARKIN, as the chairman of our committee, actually in the formation of the farm bill, spent some time at the National Renewable Energy Lab in Golden, CO, as well as those who visited it, as President Bush did a year and a half or 2 years ago, found the best in technology in terms of energy. They will tell you the only limitation we have in terms of how far we can go with the renewable energy revolution is the limitation that we impose upon ourselves. When you ask them to tell you candidly whether we can be in a position where we can develop 30 percent of our energy from renewable energy resources by the year 2020, they will tell you that if you want to, we can, in fact, do it. So the scientists who have the best knowledge on the research and the technology tell us that a lot is possible in the renewable energy equation.

Now, because we have developed these technologies, we are also seeing a lot of economic activity throughout our country. In my State, again, in Colorado, when you go to the land of the turquoise skies, my native San Luis Valley where the Sun shines about 350 days of the year, we have the largest solar electrical generating plant now in existence in the world. There are other efforts that are underway in places such as Bakersfield, CA, where a company there within the next 2 years will be able to have completed the construction of a solar electrical powerplant that will generate 175 megawatts from one powerplant. So there is tremendous capacity underway that is being built all around the country as we harness the power of the Sun.

We are also harnessing the power of the wind, as I said. In my State, we are on the verge of getting to the point where we can generate 1,000 megawatts of power from the wind. We are not stopping with the power of the wind. We are moving forward with ethanol and a whole host of other things that are happening in my State. So there is tremendous economic opportunity for America as we embrace a new energy future for this country.

So I believe the forces that drive the new clean energy economy for America, again, are national security, environmental security, and economic opportunity—very simple, very fundamental principles that should guide our actions in the Senate. When we talk to experts who are involved in this field, they can get very excited about it because in their eyes, what they see is salvation not only for our country but also for civilization in terms of how we handle this very important signature issue for the 21st century.

I want to spend a few minutes speaking about the Energy bill that we crafted in the Energy Committee which was amended with the Finance Committee provisions on the floor of the Senate. From my point of view, there were five key aspects to that legislation. The first was the increase in efficiency standards, the increase in CAFE standards which have not been revised now for 30 years in this country. The second was a renewable fuels standard that will help us usher in this biofuels revolution for our country. The third is dealing with global warming by getting an understanding of how we can sequester carbon here within our country. The fourth is a renewable electrical standard or a renewable portfolio standard across the country. The fifth are the tax provisions that essentially function as a jet engine which allow us to move much of our policy forward that we articulated in that bill.

I am hopeful that as we move forward we will not lose sight of these key measures of the legislation and that we get as close to as much of these key components of this legislation enacted into law as we can. I know if the discussions that are taking place now between the leadership of the House and the Senate are successful, many of these aspects of the legislation will, in fact, be addressed so we have the 60 votes to get a good bill out of the Senate and then get a bill on to the President's desk that the President will sign.

I will make just one final comment on one of those five key aspects, and that, again, is the renewable fuels standard. The renewable fuels standard which we set at 36 billion gallons in that legislation that we passed out of this body is a very good piece of legislation. I do not believe the Senate should compromise on that renewable fuels standard at all. We went through a very thoughtful process to come up with that 36-billion-gallon standard. We had experts from around the country, including from the National Renewable Energy Lab, coming in and talking to us about how we could achieve the limitation of corn-based ethanol at 15 billion gallons. We also heard from experts who tell us we are within a year or two away from being able to open the door to the commercialization of cellulosic ethanol.

We made the determination that is where the future of our energy independence lies—in the area of biofuels and transportation. So we said we can produce in a new RFS 36 billion gallons. That is a quintupling of the current renewable fuels standard which we currently have in place. That is the correct number because that is what the science will support. We know that because 15 billion gallons will come from corn, and 21 billion gallons will come from the advanced biofuels which we are pushing in that legislation.

So I hope those who are involved in dealing with the renewable fuels standard in the legislation which is currently under negotiation understand the importance of the RFS and how much work went into coming up with that 36-billion-gallon-a-year RFS that came out of the Senate Energy Committee which was adopted with a broad bipartisan vote on the floor of the Senate.

I believe the people of America would be delighted if we in the Senate, working with the House of Representatives, were able to complete the legislation on these two very important issues: to complete the farm bill and to get it done before Christmas, and to complete a good energy bill that will help us move forward toward energy independence and address these key, critical policy challenges that confront us. It is a signature issue for the 21st century. The clean energy economy is something which we must embrace. It is something we do in both pieces of legislation that we have talked about today, the farm bill, as well as the 2007 Energy bill.

Madam President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SALAZAR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SALAZAR. Madam President, I ask unanimous consent that the pending amendment be set aside so that I may call up another amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 3539

Mr. SALAZAR. Madam President, on behalf of Senator DURBIN, I call up amendment No. 3539.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR], for Mr. DURBIN, proposes an amendment numbered 3539.

Mr. SALAZAR. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 3539

(Purpose: To provide a termination date for the conduct of certain inspections and the issuance of certain regulations)

At the end of subtitle B of title XI, insert the following:

SEC. 1107__. TERMINATION OF AUTHORITY TO CONDUCT INSPECTIONS AND ISSUE REGULATIONS.

(a) TERMINATION OF AUTHORITY.—The authority to conduct inspections and issue regulations under the provisions of law described in subsection (b) shall terminate on the date that is 2 years after the date of enactment of this Act.

(b) PROVISIONS OF LAW.—The provisions of law referred to in subsection (a) are—

(1) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(2) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(3) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.); and

(4) chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.).

Mr. FEINGOLD. Madam President, I am pleased that the leadership of both parties has resolved the issues surrounding consideration of the farm bill. I have been extremely frustrated with the delay up to this point. In my home State, thousands of Wisconsinites are waiting for this bill to pass as they prepare for the coming year. This is true for farmers, of course, but also for the hard-working people who run and depend on food pantries and other hunger relief organizations.

I know how hard the committee, particularly Chairman HARKIN and Ranking Member CHAMBLISS, worked to draft this extensive bill. I am pleased that this bill would make some significant improvements over current policy in a number of areas. I have heard some suggest that, if this impasse continued, Congress ought to just extend the status quo for 2 years. Frankly, this would be a shirking of our responsibility, and would ignore the improvements made in committee, as well as those that have already been, or may still be, added during Senate consideration. For example, the Senate committee bill would increase the reimbursement rate for the Milk Income Loss Contract, or MILC, program to 45 percent in 2009. Many Wisconsin farmers will benefit from this important increase in the MILC program's responsible safety net for small and medium dairy farmers.

I am acutely aware of the importance of the support programs for American farmers. However, there is plenty of room for improvement, and I know many of my colleagues agree. Many of us, on both sides of the aisle, have filed relevant amendments that would make reasonable changes to existing programs and spend our limited money more responsibly. I have crafted a moderate reform amendment that I am glad to have combined with a similar effort by Senator MENENDEZ. I hope our amendment will be considered by this body before the bill is passed, and look forward to supporting other reform efforts. The Senate should be considering these and other amendments to improve the bill, such as the payment limit amendment offered by Senators DORGAN and GRASSLEY.

The committee bill also provides significant investments in conservation, nutrition, and rural development programs. I especially want to highlight the nutrition programs, as the beneficiaries of Food Stamps, TEFAP, and other such programs would be among the first to see the benefits of a new farm bill, at a time when food and fuel prices are on the rise. The committee bill does much for these programs—including increasing the standard deduction for Food Stamps and indexing benefits to inflation. I am encouraged by these important investments that provide a total increase of over $5 billion.

The current problems facing food banks and pantries across the country demonstrate the need for an infusion from the farm bill. As many of my colleagues know, food pantries across the country that have long distributed TEFAP and other similar programs are finding that, this year, the same resources are providing significantly less food for their needy constituents as the cost of both food and transportation has eroded their buying power.

Just last week, my staff got an email from an employee at Milwaukee Hunger Task Force, one of the largest TEFAP distributors in the State, which highlights this dilemma. He explained that they just ordered a truckload of TEFAP peanut butter at a cost of $37,000; a year ago, this same order cost a full $10,000 less. And it is not just peanut butter—the cost of a truckload of flour rose $7,000 in the same year; a truckload of tuna rose $8,000. I am sure my colleagues have seen some of the stories in their State papers as I have in Wisconsin, announcing the bare cupboards at food pantries, shelters, and other hunger relief groups. The increases for nutrition programs included in the farm bill are vital for these groups and the Americans they serve.

I look forward to supporting proposals to further improve support for farmers, enhance life in rural areas and increase nutrition. Several amendments would significantly address the needs of farmers and rural communities while making available additional funds for nutrition as well. For example, the proposed Dorgan-Grassley payment-limits amendment that I am pleased to cosponsor provides over $200 million for nutrition programs, including $56 million to index TEFAP benefits for inflation. Similarly, my amendment with Senator MENENDEZ provides $301 million for Food Stamps in the ''outyears'' of the next farm bill, 2013–2017, and about $70 million annually for purchase of local food through various nutrition programs including WIC Farmers market vouchers, the Seniors Farmers Market Nutrition Program, the Fresh Fruit and Vegetable Snack Program and the Commodity Supplemental Food Program.

I hope those Senators who were delaying consideration of this bill—which helps millions of Americans, farmers and nonfarmers alike—will allow the Senate to have a fair and thorough debate on this important legislation. After all these months, any additional delay is simply unacceptable.

Mr. SALAZAR. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, for the information of all our colleagues who have been watching the debate on the farm bill today, and the amendments that have been offered, we are making significant progress based upon the unanimous consent agreement that was reached last week. We now have moved to a point where the 20 Republican amendments have been filed on the bill, there are five Democratic amendments that have been filed on the bill, and what we will do, starting in just a few seconds and moving on into tomorrow, is move forward trying to get to a final point on this farm bill.

We are hopeful and optimistic we are going to get this done. I think there is good bipartisan agreement. And I think this legislation, which Senator HARKIN has championed as chairman of the Agriculture Committee, along with the assistance of Ranking Member CHAMBLISS, will in fact move its way forward to a conclusion in the Senate.

Mr. President, I ask unanimous consent that on Tuesday, December 11, when the Senate resumes H.R. 2419, it then return to the Lugar-Lautenberg amendment, No. 3711, and that there be 3 hours of debate equally divided and controlled in the usual form, prior to a vote in relation to the amendment; that no amendment be in order to the amendment prior to the vote; that at 12:30 Tuesday, the Senate stand in recess until 2:15 p.m. for the respective party conference meetings; that upon reconvening at 2:15 p.m. the Senate resume the debate with respect to amendment No. 3711; and that upon the use or yielding back of time, the Senate proceed to vote in relation to amendment No. 3711.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SALAZAR. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COLORADO SHOOTINGS

Mr. SALAZAR. Mr. President, I rise today with a heavy heart, saddened and angered by the violence that shook my State of Colorado yesterday. On a day that many Americans devote to family and faith, we awoke to news that two of our young people had been shot dead early Sunday morning on the grounds of Faith Bible Church in Arvada, CO.

Tiffany Johnson was only 26 years old. Philip Crouse was 24 years old. They were killed, and two of their colleagues were injured as they worked at Youth With a Mission dormitory, waiting to welcome back kids who were returning from a late night youth bowling trip.

A few hours later, 70 miles to the south, in Colorado Springs, violence again dared to enter a place of worship on Sunday. A gunman armed with a high-powered rifle, stormed into New Life Church, killing two sisters, Stephanie Works, age 18, and Rachael Works, age 16, and injuring four others, including their father.

Only the quick thinking and bravery of a security guard was able to stop the rampage. Law enforcement officials throughout the day yesterday, last night and today, are working at top speed to get to the bottom of what happened. They have the full support of Governor Ritter of Colorado, Federal agencies, and numerous State and local law enforcement agencies that are working in this investigation.

As a former attorney general of Colorado, I know firsthand the extraordinary capabilities of our local and State law officials. I have full and complete confidence in their abilities. But having overseen investigations, including the investigation of the shooting at Columbine High School, I know that however successful we may be in uncovering what happened and bringing justice to those responsible, the transgressions the Nation witnessed yesterday defy reason and comprehension.

Sunday's violence has no place in our society. That five people were shot is a terrible tragedy, no matter in what city, neighborhood or street that kind of violence occurs. But that this barbarity invaded two places of worship, where young people were serving their community and where families were attending a Sunday service, stirs a particular outrage in all of us.

There are certain sanctuaries we share, and they should never, ever see bloodshed. Schools are sanctuaries. Our homes are sanctuaries. Churches, mosques, synagogues, and other houses of worship are sanctuaries. When these places come under attack, for whatever reason, we all suffer, for our right to pray in peace should be inviolate.

When someone undermines this right, we are compelled to respond. We are compelled to respond not just with the force of law but by mobilizing the force of our shared values and of our community. We must rebuild that sense of security that should envelop every house of worship in this country. Americans should never feel fear in a place of faith.

Our thoughts and prayers today are with the victims of yesterday's attacks, with their families and friends. To those who lost a son, a daughter or a friend, I know no words can assuage the pain you feel. I can only hope that in time your memories of the service, faith, and love of those you lost will overcome the senselessness of this terrible tragedy.

Mr. ALLARD. Mr. President, I rise today to express, on behalf of myself and my wife Joan, our devastation and heartfelt sadness for both the families and communities that are suffering as a result of the senseless shootings yesterday in Colorado.

Every shooting, and every loss of an innocent life, is a terrible blow. But, shootings at schools or churches hit an especially weak spot in our public armor. They hurt our Nation in a deeper and more profound way and we mourn for the families and communities of those who have been affected by the tragedies this weekend.

The first attack on Sunday occurred at 12:30 a.m. and left two victims dead and two other wounded at the Youth with a Mission center in metro Denver. The second, 12 hours later in Colorado Springs, left two dead and three others wounded.

The two killed at the Youth with a Mission center were a young woman from Minnesota and a young man from Alaska. They were at the center to learn how to better spread the message of their faith. The two wounded at the center are in the hospital, one in critical condition and one in fair condition. The two victims who lost their lives at the New Life Church were teenage sisters, shot in the parking lot as they left a worship service. Three others, including the father of the two teenage victims, were also wounded at the church and are recovering from injuries.

There were 7,000 people at the New Life Church yesterday when the shooting took place. A volunteer security guard stopped this murderer just inside the building, saving an unknown—but certainly large number of those from being attacked as well. The name and background of the security guard who stopped the gunman are still being withheld, but she bravely acted on her instincts and training. With quick and decisive action, she returned fire with the gunman, fatally wounding him. This real-life hero has been widely credited today for saving hundreds of lives inside the church. I join with the people of Colorado in praising her actions.

Mr. President, I hope we can find the time to consider the church members lost in Colorado yesterday, the heartache of those left behind, and the valiant action of those who stopped the tragedy from spreading and helped those in need.

HATE CRIMES

Mr. CARDIN. Mr. President, earlier this year this Nation marked the 50th anniversary of the Civil Rights Act of 1957. That landmark legislation was Congress's first civil rights bill since the end of Reconstruction. It established the Civil Rights Division of the Justice Department and empowered Federal prosecutors to obtain court injunctions against interference with the right to vote. It also established a Federal Commission on Civil Rights with authority to investigate discriminatory conditions and recommend corrective measures.

In the Judiciary Committee, under the leadership of my distinguished colleague, the senior Senator from

Vermont, we held a hearing to commemorate this milestone, to talk about our Nation's progress over the past half century, and how we must move forward if we are to live up to the ideals enumerated in the Constitution. My former colleague from the House and an American hero, Representative JOHN LEWIS, shared his recollections and his hopes for the future with us.

Today, however, it is with great sadness that I come to the Senate floor to talk about a rash of incidents involving the hanging of nooses in this country. These incidents are a painful reminder of just how far we have to go. I am introducing a Senate resolution that expresses the sense of the Senate that: the hanging of nooses is a horrible act when used for the purpose of intimidation, and which under certain circumstances can be a criminal act; that it should be thoroughly investigated by Federal, State, and local law enforcement authorities; and that any criminal violations should be vigorously prosecuted. The House of Representatives unanimously passed a similar resolution, H. Res. 826, on December 5, and I ask the Senate to take the same action.

American students are being targeted by this epidemic of hate crimes, many of which have occurred after the Jena Six incident arose. Just this year, nooses were discovered hung on the campuses of the University of Maryland, Indiana State University, the United States Coast Guard Academy, East Carolina University, North Carolina State, Columbia University, Louisiana State University, and Purdue.

Nooses are being found in elementary and high schools, in Illinois, Louisiana, North Carolina, South Carolina, and New York. And so we have a new generation of children who are growing up with the same symbols of hate that proliferated more than 100 years ago.

Our Nation's first responders are targeted with these symbols of hate: firefighters in Jacksonville, FL, and police departments in Hempstead and Brooklyn, NY. Nooses have been displayed in hospitals in Pittsburgh, PA, and Orangeburg, NY. Finally, the Equal Employment Opportunity Commission has filed more than 30 lawsuits for hanging nooses in the workplace since 2001, and stated that it observed ''a disturbing national trend of increased racial harassment cases involving hangman's nooses in the workplace.''

Let us remember the chilling history of the United States on this subject. The hanging of nooses and lynching was first used to punish African slaves as early as the 17th century and was still commonplace in the United States until the 1960s civil rights movement. An estimated 5,000 people were lynched in the United States—roughly 70 percent of whom were African-Americans—between the 1880s and 1960s.

Mr. President, the situation is even more dire than most Americans imagine. The Southern Poverty Law Center's Intelligence Project counted 844 active hate groups in the United States in 2006.

Hate crimes' tentacles reach far beyond the intended targets. They bring a chill to entire neighborhoods and create a sense of fear, vulnerability, and insecurity in our communities. They poison the well of our democracy and strike at the very heart of the American spirit.

Hate crimes are un-American. They cannot be tolerated. When individuals are targeted and attacked because of who they are, entire communities suffer, we are all diminished by it. I call on the Senate today to condemn the recent spate of noose hangings and urge vigorous Federal, State, and local investigation and prosecution of criminal violations.

REGULATIONS GOVERNING THE PUBLIC AVAILABILITY OF CONFERENCE REPORTS

Mrs. FEINSTEIN. Mr. President, I wish to notify all Senators that the Committee on Rules and Administration adopted Regulations Governing the Public Availability of Conference Reports, effective December 7, 2007.

These regulations were promulgated pursuant to Public Law 110–81, the Honest Leadership and Open Government Act of 2007.

I ask unanimous consent that the regulations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REGULATIONS GOVERNING THE PUBLIC AVAILABILITY OF CONFERENCE REPORTS

(Adopted by the Committee on Rules and Administration, United States Senate, Effective December 7, 2007)

1. Section 511 (b)(1) of Public Law 110–81, enacted on September 14, 2007, authorizes the Committee on Rules and Administration to promulgate regulations implementing the requirements of paragraph 9 of Rule XXVIII of the Standing Rules of the Senate.

2. Under the direction of the Committee on Rules and Administration, the Government Printing Office shall create and maintain a publicly accessible website that shall make available conference committee reports.

3. The Government Printing Office shall affix a time stamp to each conference report noting the date and time the report was made available to the public on the website. The Government Printing Office shall also notify, in writing or by e-mail, designated staff of the Secretary of the Senate and the Clerk of the House of the date and time the report was posted on the website. The 48-hour period of public availability of a conference report prior to a vote on the adoption of the report, required by Section 511 (b)(1) of P.L. 110–81, shall commence on the date and time of the time stamp, unless there is an earlier public posting on a Congressionally authorized website.

4. The Government Printing Office shall provide public notification of this website through communications with the Library of Congress and the Federal Depository Library system.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

HUMAN RIGHTS DAY

• Mr. OBAMA. Mr. President, today is Human Rights Day. Fifty-nine years ago today, thanks in large measure to the tireless leadership of Eleanor Roosevelt, the United Nations General Assembly unanimously adopted the Universal Declaration of Human Rights.

The principles encompassed in the declaration are uniquely rooted in the American tradition, beginning with our founding documents. Yet the declaration also wove together a remarkable variety of political, religious, and cultural perspectives and traditions. The United States and the United Kingdom championed civil liberties. The French representative on the committee helped devise the structure of the declaration. India added the prohibition on discrimination. China stressed the importance of family and reminded U.N. delegates that every right carried with it companion duties. Today should be a day of celebration, a day when we hail the universality of these core principles, which are both beacons to guide us and the foundations for building a more just and stable world.

The Universal Declaration was a radical document in its time, and its passage required courageous leadership from political leaders. Even though no country could have been said to be in full compliance with its provisions, including the United States where Jim Crow still prevailed, all U.N. member states committed themselves to promoting, protecting, and respecting fundamental human rights. Although Franklin Delano Roosevelt did not live to see the enactment of the historic declaration, it enshrined his ''four freedoms''—freedom from want, freedom of speech, freedom of religion, and freedom from fear. Individuals in the United States and everywhere else were entitled, simply by virtue of being human, to physical and economic security. The declaration was born of the recognition, in the words of one human rights scholar, that ''what is pain and humiliation for you is pain and humiliation for me.''

Anniversaries are a good time to examine how faithful we have been to our own aspirations—to ask ourselves how well we are measuring up, to assess whether our practice lives up to our promise. We in the United States enjoy tremendous freedoms, but we also carry a special responsibility—the responsibility of being the country so many people in the world look to, just as they did in Mrs. Roosevelt's day, for human rights leadership.

Today, on this anniversary, we must acknowledge both bad news and good news. The bad news is that for nearly seven years, President Bush has ignored Franklin Roosevelt's wise counsel about the corrosive effects of fear. Indeed, instead of urging us to reject fear, he has stoked false fear and undermined our values.

Wounded by a horrific terrorist attack, we were warned that Saddam Hussein—a man who had nothing to do

with that attack—could unleash mushroom clouds from nuclear bombs. We were told that waterboarding was effective. We were assured that shipping men off to countries that tortured was good for national security. We were led to believe that our military and civilian courts were inadequate, and so we established a network of unaccountable prisons. And the administration launched secret wiretapping initiatives, scoffed at the rule of law, and flaunted the will of the Congress.

Nonetheless, in his second inaugural, President Bush rightly proclaimed, ''America's vital interests and our deepest beliefs are now one.'' But, tragically, he has failed to heed his own words. We have not only vacated the perch of moral leader; we have also compounded the threat we face, spurring more people to take up arms against us.

The further bad news is that other countries have not stepped up to fill the void left by our lack of moral leadership. The hundreds of thousands killed and two million displaced by the genocide in Darfur; the shell-shocked Buddhist monks in Burma; the political opposition in Zimbabwe; the imprisoned independent journalists in Russia; the brave human rights lawyers and judges in Pakistan—they do not know where to turn internationally. Human rights abusers win seats on the U.N. Human Rights Council, the International Criminal Court issues war crimes indictments, but no country steps up to enforce them; the U.N. Department of Peacekeeping Operations begs in vain for troops, helicopters and police to help stave off humanitarian catastrophes. For all these reasons, the world needs renewed, principled U.S. leadership.

There is another critical reason why America must again provide moral leadership on human rights: the fate of women around the world. Whether it is in creating wealth, access to capital, and property rights, or receiving quality education, health care, and social services, women still lag far behind men. And of course the lack of full reproductive rights can be a matter of life and death for too many women. Inequality means insecurity for women, especially those who comprise 70 percent of the world's poorest. There is a clear link between discrimination and violence against women; equality and empowerment of women is the most effective approach to ending violence against women. Today, violent acts against women, in the words of UNICEF, ''are the most pervasive violation of human rights in the world today.''

Women's inequality and the persistent prevalence of honor killings, trafficking, repression, and sexual assault nearly six decades after the Universal Declaration shame us all. One need only look to Saudi Arabia, where a 19-year-old woman, who was raped, instead of receiving treatment and support, was sentenced to 200 lashes and 6 months in prison for riding in a car with a non-related male. In the Democratic Republic of Congo and in Darfur, rape is routinely used as a weapon of war by militia and government forces. In northern Uganda, young girls are given as ''prizes'' to older male soldiers to reward performance.

In Pakistan, international observers report that one of the largest challenges facing its next election is guaranteeing women enough security so they can leave their homes to vote. In Iraq the militarization and rise of radical Islam has eroded women's rights. In Afghanistan, while nothing can compare to the day when the Taliban ruled the entire country, women throughout that country complain that their freedoms have been woefully curtailed. The United States alone cannot solve the problem of women's suffering and gender inequality around the world, but with new, principled leadership, the United States can elevate women's economic, political and social development to the top of our international agenda and ensure that women around the world know that they have a reliable friend and partner in America.

Let me close by saying that the very depth of the anti-Americanism felt around the world today is a testament not to hatred but to disappointment, acute disappointment. The global public expects more from America. They expect our government to embody what they have seen in our people: industriousness, humanity, generosity, and a commitment to equality. We can become that country again.●

ADDITIONAL STATEMENTS

TERM OF SERVICE

● Mr. BAUCUS. Mr. President, within the Treasury Department is a Commissioner of Internal Revenue, who is appointed by the President with the advice and consent of the Senate. The Internal Revenue Restructuring and Reform Act of 1998 provided that the Commissioner is appointed to a 5-year term.

This bill, co-sponsored by my good friend and ranking member of the Senate Finance Committee, CHUCK GRASSLEY, clarifies that the term of the Commissioner is a 5-year term, determined by reference to a 5-year term beginning with the term commencing on November 13, 1997.

This proposal is effective as if included in the amendment made by section 1102(a) of the Internal Revenue Service Restructuring and Reform Act of 1998.●

TRIBUTE TO SCOTT MILLER

● Mr. CARPER. Mr. President, today I celebrate the tenure of Wesley College president Dr. Scott D. Miller. After 10 years as president, Dr. Miller will step down to assume leadership of Bethany College in my home State of West Virginia in January 2008.

Founded in 1873, Wesley College is located on 50 acres in historic Dover, DE. Delaware's oldest private college, the school offers 30 bachelors and 4 associates degrees, and master's degrees in nursing, education, business administration and environmental science.

I first met Dr. Miller in 1997 when I was Governor of Delaware, and he was appointed as the 15th president of Wesley College. During his tenure, the college proudly reported record applications, a climbing enrollment, increased alumni participation and a greater minority presence. For these and other accomplishments, Dr. Miller has been nationally acclaimed for his contributions to higher education.

Under Dr. Miller's leadership, Wesley experienced substantial growth, including total enrollment increases from 1,052 to 3,210 and $67 million raised in the Campaign for Wesley fund, with more than $40 million earmarked for capital renovations and new construction. Dr. Miller oversaw the creation of four graduate programs and the establishment of a New Castle County campus for Adult Studies. In addition, he established an undergraduate nursing program and five other new undergraduate majors.

Beyond academics, Wesley College has also been granted membership in the selective Capital Athletic Conference and enjoys the addition of new varsity sports programs. Congratulations to the Wolverines who are again in the quarterfinals this year for the NCAA Division III South Region collegiate football championship.

To maintain Wesley's support of the local community, Dr. Miller was also instrumental in building an alliance with Delaware State University and the Friends of the Capital Theater to maximize the usage of the historic Capital Theater, positioning it as the premiere performing arts center in southern Delaware. The relationship was formalized in January 2007 with the three organizations becoming equal partners in the operation, management and programming of the theater.

In addition to all the accolades already mentioned, Scott and his family have become valued friends of mine and of many others in Delaware over the past decade. Dr. Miller's wife Ann is an educator in her own right and has been a full partner with her husband in supporting his efforts to lead Wesley to new heights. We were also lucky to have their daughter Ashlee serve as an intern in my Wilmington office this past summer.

Scott and Wesley College have also supported my charter school initiative in Delaware by being one of the first colleges in America to charter and provide space for a public charter school. Additionally, Wesley College was one of the first institutions to sign on as a partner of a homeownership initiative that I started in Dover by supporting the effort to increase homeownership rates in the capital city. Our new homeowners include employees of the

Aramark company which provides food services to Wesley College.

Prior to joining the Wesley community, Dr. Miller served as president, executive vice president, and vice president for development of Lincoln Memorial University; an interim public information officer at West Virginia Wesleyan College; and director of University Relations and Alumni Affairs at the University of Rio Grande.

Dr. Miller earned his bachelor's degree from West Virginia Wesleyan College, master's degree from the University of Dayton, education specialist from Vanderbilt University, and doctorate in higher education administration from the Union Institute and University. He has also completed postgraduate studies at Ohio University and Harvard University.

Outside of the college, Dr. Miller was an active community participant during his time in Delaware. He served on the board of numerous local and national groups including the National Association of Schools and Colleges of the United Methodist Church, the United Way of Delaware and the Greater Dover Commission. Dr. Miller was also an honorary commander of the Dover Air Force Base for 2 years and was selected to serve on the Joint Civilian Orientation Council by the Secretary of Defense.

I would like to personally acknowledge and sincerely thank Dr. Miller for the outstanding contribution he has made to Wesley College and the surrounding community over the past 10 years. The Millers have been good for Wesley, for Dover, for Kent County, and for Delaware. We will miss them a great deal.●

MATTHEW SHEPARD ACT OF 2007

● Mr. SMITH. Mr. President, today I speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Early in the morning of May 8, 2007, 51-year-old Stevenpaul Richey was severely beaten by two men inside his Missoula, MT, apartment. The previous night, Richey had been at a bar in downtown Missoula where he met Michael Daniel Lemay and Christopher Lance Newrider, both 20 years old. The three men reportedly headed back to Richey's apartment at about 1 a.m., stopping on the way to buy beer. At that point, Richey assumed that the trio would have drinks and listen to music. He was wrong. According to Richey, once inside the apartment, one of the men stated that he did not like gay people while the other hit him suddenly from behind. Richey fell to the ground. Newrider and Lemay tied his ankles and wrists, continuing to batter him and yelling anti-gay epithets. The attackers left Richey bound with a punctured lung, two broken ribs, and shattered bones in his face. Although investigators examined the possibility that the beating was bias-motivated, Montana bias-crime laws currently do not cover crimes motivated by sexual orientation. The two assailants were charged with kidnapping and aggravated assault.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Matthew Shepard Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

MESSAGE FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 3:24 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 888. An act to amend section 1091 of title 18, United States Code, to allow the prosecution of genocide in appropriate circumstances.

S. 2371. An act to amend the Higher Education Act of 1965 to make technical corrections.

S.J. Res. 8. Joint resolution providing for the reappointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 2436. A bill to amend the Internal Revenue Code of 1986 to clarify the term of the Commissioner of Internal Revenue.

S. 2440. A bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

S. 2441. A bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4167. A communication from the General Counsel, Government Accountability Office, Department of Energy, transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Department in fiscal years 2006 and 2007; to the Committee on Appropriations.

EC–4168. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (72 FR 63110) received on November 26, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–4169. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (72 FR 63112) received on November 26, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–4170. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Alaska Essential Fish Habitat VMS Rule Correction'' (RIN0648–AU93) received on November 26, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4171. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XD21) received on November 26, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4172. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Economic Exclusive Zone Off Alaska; Trawl Gear in the Gulf of Alaska'' (RIN0648–XD33) received on November 26, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4173. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Non-American Fisheries Act Crab Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XD36) received on November 26, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4174. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Inseason Action, Temporary Rule, Reopening of the Eastern U.S./Canada Area'' (RIN0648–XD40) received on November 26, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4175. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Temporary Rule; Rescission of Closure; Connecticut 2007 Summer Flounder Commercial Fishery'' (RIN0648–XC92) received on November 26, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4176. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska'' (RIN0648–XD07) received on November 26, 2007; to the Committee on Commerce, Science, and Transportation.

EC–4177. A communication from the Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Ownership and Control; Permit and Application Information; Transfer, Assignment, or Sale of Permit Rights'' (RIN1092–AC52) received on November 26, 2007; to the Committee on Energy and Natural Resources.

EC–4178. A communication from the Administrator, Environmental Protection Agency, transmitting, a legislative proposal intended to implement an important new treaty for the protection of the world's oceans from ocean dumping; to the Committee on Environment and Public Works.

EC–4179. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland, Pennsylvania, Virginia, West Virginia; Redesignation of 8-Hour Ozone Nonattainment Areas to Attainment and Approval of the Areas' Maintenance Plans and 2002 Base-Year Inventories; Correction'' (FRL No. 8500–8) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4180. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to the Control of VOC Emissions from Consumer Products'' (FRL No. 8500–6) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4181. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Minnesota'' (FRL No. 8501–3) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4182. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments Extending the Applicability of Four Consumer and Commercial Product Regulations to the Fredericksburg Volatile Organic Compound Emissions Control Area'' (FRL No. 8500–9) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4183. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Georgia: Enhanced Inspection and Maintenance Plan'' (FRL No. 8503–1) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4184. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri; General Conformity'' (FRL No. 8502–2) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4185. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Saint Regis Mohawk's Tribal Implementation Plan'' (FRL No. 8488–9) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4186. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus Thuringiensis Vip3Aa19 Protein in Cotton; Extension of a Temporary Exemption From the Requirement of a Tolerance'' (FRL No. 8340–4) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4187. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Change in Deadline for Rulemaking to Address the Control of Emissions from New Marine Compression-Ignition Engines at or Above 30 Liters per Cylinder'' (FRL No. 8502–6) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4188. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Ethalfluralin; Pesticide Tolerance'' (FRL No. 8342–2) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4189. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interpretation of the National Ambient Air Quality Standards for PM2.5 — Correcting and Simplifying Amendment'' (FRL No. 8502–3) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4190. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticide Tolerance Crop Grouping Program'' (FRL No. 8343–1) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4191. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Spinosad; Pesticide Tolerance'' (FRL No. 8339–8) received on December 4, 2007; to the Committee on Environment and Public Works.

EC–4192. A communication from the Director, Director of Standards and Guidance, Occupational Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled ''Employer Payment for Personal Protective Equipment'' (RIN1218–AB77) received on November 26, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–4193. A communication from the Interim Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the Corporation's Annual Management Report for fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4194. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's Performance and Accountability Report for fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4195. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, the organization's Performance and Accountability Report for fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4196. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's Performance and Accountability Report for fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4197. A communication from the Secretary, Federal Maritime Commission, transmitting, pursuant to law, the Semiannual Report of the Commission's Inspector General for the period of April 1, 2007, through September 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4198. A communication from the President, Overseas Private Investment Corporation, transmitting, pursuant to law, an annual report relative to the Corporation's audit and investigative activities; to the Committee on Homeland Security and Governmental Affairs.

EC–4199. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Commission's Performance and Accountability Report for fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4200. A communication from the Chairman, Postal Regulatory Commission, transmitting, pursuant to law, the Semiannual Report of the Commission's Inspector General for the period of late June 2007 through September 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4201. A communication from the Director, Congressional Affairs, Federal Election Commission, transmitting, pursuant to law, the Semiannual Report of the Commission's Inspector General for the six-month period ending September 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1946. A bill to help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law (Rept. No. 110–239).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2436. A bill to amend the Internal Revenue Code of 1986 to clarify the term of the Commissioner of Internal Revenue; read the first time.

By Mr. NELSON of Nebraska:

S. 2437. A bill for the relief of Dr. Luis A.M. Gonzalez and Dr. Virginia Aguila Gonzalez; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. TESTER):

S. 2438. A bill to repeal certain provisions of the Federal Lands Recreation Enhancement Act; to the Committee on Energy and Natural Resources.

By Mr. MENENDEZ (for himself, Mrs. DOLE, Mr. KENNEDY, and Mr. LEVIN):

S. 2439. A bill to require the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program to list cruelty to animals as a separate offense category; to the Committee on the Judiciary.

By Mr. REID:

S. 2440. A bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; read the first time.

By Mr. REID:

S. 2441. A bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN:

S. Res. 398. A resolution honoring the life and recognizing the accomplishments of Joe Nuxhall, broadcaster for the Cincinnati Reds; considered and agreed to.

By Mr. BROWNBACK (for himself, Mr. KYL, Mr. LIEBERMAN, and Mr. GRASSLEY):

S. Res. 399. A resolution expressing the sense of the Senate that certain benchmarks must be met before certain restrictions against the Government of North Korea are lifted, and that the United States Government should not provide any financial assistance to North Korea until the Secretary of State makes certain certifications regarding the submission of applications for refugee status; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 617

At the request of Mr. SMITH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 617, a bill to make the National Parks and Federal Recreational Lands Pass available at a discount to certain veterans.

S. 773

At the request of Mr. WARNER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 773, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 838

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 838, a bill to authorize funding for eligible joint ventures between United States and Israeli businesses and academic persons, to establish the International Energy Advisory Board, and for other purposes.

S. 871

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 871, a bill to establish and provide for the treatment of Individual Development Accounts, and for other purposes.

S. 969

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 969, a bill to amend the National Labor Relations Act to modify the definition of supervisor.

S. 1317

At the request of Mr. SCHUMER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1317, a bill to posthumously award a congressional gold medal to Constance Baker Motley.

S. 1428

At the request of Mr. HATCH, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1428, a bill to amend part B of title XVIII of the Social Security Act to assure access to durable medical equipment under the Medicare program.

S. 1482

At the request of Mr. ROCKEFELLER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1482, a bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being.

S. 1492

At the request of Mr. INOUYE, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1492, a bill to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation.

S. 1595

At the request of Mr. SMITH, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1595, a bill to amend title XVIII of the Social Security Act to provide flexibility in the manner in which beds are counted for purposes of determining whether a hospital may be designated as a critical access hospital under the Medicare program.

S. 1715

At the request of Mr. KERRY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1715, a bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the Medicare program.

S. 1895

At the request of Mr. REED, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1895, a bill to aid and support pediatric involvement in reading and education.

S. 1981

At the request of Mr. REED, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1981, a bill to amend the Elementary and Secondary Education Act of 1965 regarding environmental education, and for other purposes.

S. 2010

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2010, a bill to require prisons and other detention facilities holding Federal prisoners or detainees under a contract with the Federal Government to make the same information available to the public that Federal prisons and detention facilities are required to do by law.

S. 2042

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2042, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 2071

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2071, a bill to enhance the ability to combat methamphetamine.

S. 2119

At the request of Mr. JOHNSON, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2119, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 2135

At the request of Mr. DURBIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2135, a bill to prohibit the recruitment or use of child soldiers, to designate persons who recruit or use child soldiers as inadmissible aliens, to allow the deportation of persons who recruit or use child soldiers, and for other purposes.

S. 2136

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2136, a bill to address the treatment of primary mortgages in bankruptcy, and for other purposes.

S. 2159

At the request of Mr. NELSON of Florida, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2159, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration.

S. 2278

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2278, a bill to improve the prevention, detection, and treatment of community and healthcare-associated infections (CHAI), with a focus on antibiotic-resistant bacteria.

S. 2400

At the request of Mr. SESSIONS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2400, a bill to amend title 37, United States Code, to require the Secretary of Defense to continue to pay to a member of the Armed Forces who is retired or separated from the Armed Forces due to a combat-related injury certain bonuses that the member was entitled to before the retirement or separation and would continue to be entitled to if the member was not retired or separated, and for other purposes.

S. 2426

At the request of Mrs. CLINTON, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2426, a bill to provide for congressional oversight of United States agreements with the Government of Iraq.

S.J. RES. 22

At the request of Mr. CRAPO, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S.J. Res. 22, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to Medicare coverage for the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions.

S. CON. RES. 53

At the request of Mr. NELSON of Florida, the names of the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KERRY) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. Con. Res. 53, a concurrent resolution condemning the kidnapping and hostage-taking of 3 United States citizens for over 4 years by the Revolutionary Armed Forces of Colombia (FARC), and demanding their immediate and unconditional release.

At the request of Mr. ISAKSON, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. Con. Res. 53, supra.

S. RES. 388

At the request of Mr. CRAPO, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 388, a resolution designating the week of February 4 through February 8, 2008, as ''National Teen Dating Violence Awareness and Prevention Week''.

S. RES. 397

At the request of Mr. DURBIN, his name was added as a cosponsor of S. Res. 397, a resolution recognizing the 2007–2008 Siemens Competition in Math, Science and Technology and celebrating the first time in the history of the competition that young women have won top honors.

AMENDMENT NO. 3614

At the request of Mr. DOMENICI, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 3614 proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

AMENDMENT NO. 3660

At the request of Mr. BAUCUS, the names of the Senator from Washington (Ms. CANTWELL), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Kansas (Mr. ROBERTS) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of amendment No. 3660 intended to be proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. MENENDEZ (for himself, Mrs. DOLE, Mr. KENNEDY, and Mr. LEVIN):

S. 2439. A bill to require the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program to list cruelty to animals as a separate offense category; to the Committee on the Judiciary.

Mr. MENENDEZ. Mr. President, today the Nation closed the book on a heinous story that brought the criminal act of dogfighting into the national spotlight. Michael Vick received 23 months in jail for his actions, but that is not the end of the story. Nor is it the end of the nation's attack on dogfighting.

Dogfighting is reprehensible in its own right. There is no justification for the intentional mauling and destruction of a living animal. But it is a precursor of so much more. That is why we must continue to fight these crimes.

Dogfighting isn't just about cruelty to animals. Dogfights are one becoming an increasingly profitable enterprise for violent gangs. These criminals can bring in as much as $25,000 by selling a champion dog on the black market, and they can take a cut from bets that can run in excess of $100,000 for a single fight. Stopping animal cruelty means cutting off the flow of money that these criminals use to intimidate and terrorize their communities.

Studies show that animal cruelty is a steppingstone to violent crimes against humanity. When the FBI profiles serial killers, they try to find out if they have a history of animal abuse. If someone's been prosecuted for animal cruelty, they are four times more likely to commit a violent crime. The Chicago Police Department found that almost 6 out of every 10 people arrested for crimes against animals turned out to be members of gangs. Animal cruelty is one of the strongest indicators of participation in other acts of violence that criminologists have ever discovered.

No on can argue that this barbaric practice should continue. But there is an unnecessary barrier to stopping it: gathering reliable data on animal fighting is more difficult than it should be. We don't have a good idea of how fast it is growing because of a simple problem with how the crime is categorized.

That is why I introduced the Tracking Animal Cruelty Crimes Act, which would list cruelty to animals as a separate offense category in the three major crime reporting systems used by the federal government. It's time to begin tracking these crimes, so we can better understand it—and ultimately so we can shut down this vast, exploding and increasingly lucrative criminal enterprise.

Currently in the world of criminal justice, there are ''Type I'' crimes, like homicide and arson, and ''Type II'' crimes, like drug abuse, gambling, and vagrancy. But then there are crimes that are thrown into a category called ''Other.'' Acts of animal cruelty, including dogfighting, are in the ''Other'' category. That means law enforcement can't separate out and analyze data about them.

How are we supposed to come up with an effective policy to target animal cruelty if that data is lumped together with other totally unrelated crimes? But there is a simple fix to this problem. Once law enforcement officials can gather information on animal cruelty as a separate category, they can track criminal activity, monitor trends, allocate resources more efficiently, and ultimately stop these criminals before they commit even more heinous crimes.

The repulsive blood-sport of dogfighting is a truly national problem, including in my home State of New Jersey, where last year officials found a dog ring in a bunker 11-feet underground. That was during a drug raid, showing how tied up that activity is with illegal gambling, drugs, and violence.

If we are going to combat a culture of violence wherever it exists in this country, we need to do everything in our power to stop the gangs that terrorize our streets and cut off their flow of money—whether it is through setting tougher penalties for gang activities, expanding funding for community policing, or boosting prevention efforts such as after-school programs.

For the sake of the safety of our communities, I urge my colleagues to take swift action to enact this important legislation.

By Mr. REID:

S. 2440. A bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 2440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''FISA Improvement Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

SEC. 101. TARGETING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking title VII; and

(2) by adding after title VI the following new title:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''SEC. 701. LIMITATION ON DEFINITION OF ELECTRONIC SURVEILLANCE.

''Nothing in the definition of electronic surveillance under section 101(f) shall be construed to encompass surveillance that is targeted in accordance with this title at a person reasonably believed to be located outside the United States.

''SEC. 702. DEFINITIONS.

''(a) IN GENERAL.—The terms 'agent of a foreign power', 'Attorney General', 'contents', 'electronic surveillance', 'foreign intelligence information', 'foreign power', 'minimization procedures', 'person', 'United States', and 'United States person' shall have the meanings given such terms in section 101, except as specifically provided in this title.

''(b) ADDITIONAL DEFINITIONS.—

''(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate; and

''(B) the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The terms 'Foreign Intelligence Surveillance Court' and 'Court' mean the court established by section 103(a).

''(3) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The terms 'Foreign Intelligence Surveillance Court of Review' and 'Court of Review' mean the court established by section 103(b).

''(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

''(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

''(B) a provider of electronic communications service, as that term is defined in section 2510 of title 18, United States Code;

''(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

''(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

''(E) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), or (D).

''(5) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''SEC. 703. PROCEDURES FOR ACQUIRING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

''(a) AUTHORIZATION.—Notwithstanding any other law, the Attorney General and the Director of National Intelligence may authorize jointly, for periods of up to 1 year, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

''(b) LIMITATIONS.—An acquisition authorized under subsection (a)—

''(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

''(2) may not intentionally target a person reasonably believed to be outside the United States if the purpose of such acquisition is to target for surveillance a particular, known person reasonably believed to be in the United States, except in accordance with title I; and

''(3) shall be conducted in a manner consistent with the fourth amendment to the Constitution of the United States.

''(c) UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES.—

''(1) ACQUISITION INSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—An acquisition authorized by subsection (a) that occurs inside the United States may not target a United States person except in accordance with the provisions of title I.

''(2) ACQUISITION OUTSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—An acquisition by an electronic, mechanical, or other surveillance device outside the United States may not intentionally target a United States person reasonably believed to be outside the United States to acquire the contents of a wire or radio communication sent by or intended to be received by that United States person under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes if the technique were used inside the United States unless—

''(A) the Attorney General or the Attorney General's designee submits an application to the Foreign Intelligence Surveillance Court that includes a statement of the facts and circumstances relied upon by the applicant to justify the Attorney General's belief that the target of the acquisition is a foreign power or an agent of a foreign power; and

''(B) the Foreign Intelligence Surveillance Court—

''(i) finds on the basis of the facts submitted by the applicant there is probable cause to believe that the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

''(ii) issues an ex parte order as requested or as modified approving the targeting of that United States person.

''(3) PROCEDURES.—

''(A) SUBMITTAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—Not later than 30 days after the date of the enactment of this title, the Attorney General shall submit to the Foreign Intelligence Surveillance Court the procedures to be utilized in determining whether a target reasonably believed to be outside the United States is a United States person.

''(B) APPROVAL BY FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The procedures submitted under subparagraph (A) shall be utilized as described in that subparagraph only upon the approval of the Foreign Intelligence Surveillance Court.

''(C) UTILIZATION IN TARGETING.—Any targeting of persons authorized by subsection (a) shall utilize the procedures submitted under subparagraph (A) as approved by the Foreign Intelligence Surveillance Court under subparagraph (B).

''(d) CONDUCT OF ACQUISITION.—An acquisition authorized under subsection (a) may be conducted only in accordance with—

''(1) a certification made by the Attorney General and the Director of National Intelligence pursuant to subsection (g); and

''(2) the targeting and minimization procedures required pursuant to subsections (e) and (f).

''(e) TARGETING PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt targeting procedures that are reasonably designed to ensure that any acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States.

''(2) JUDICIAL REVIEW.—The procedures referred to in paragraph (1) shall be subject to judicial review pursuant to subsection (i).

''(f) MINIMIZATION PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt, consistent with the requirements of section 101(h), minimization procedures for acquisitions authorized under subsection (a).

''(2) JUDICIAL REVIEW.—The minimization procedures required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(g) CERTIFICATION.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Subject to subparagraph (B), prior to the initiation of an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence shall provide, under oath, a written certification, as described in this subsection.

''(B) EXCEPTION.—If the Attorney General and the Director of National Intelligence determine that immediate action by the Government is required and time does not permit the preparation of a certification under this subsection prior to the initiation of an acquisition, the Attorney General and the Director of National Intelligence shall prepare such certification, including such determination, as soon as possible but in no event more than 168 hours after such determination is made.

''(2) REQUIREMENTS.—A certification made under this subsection shall—

''(A) attest that—

''(i) there are reasonable procedures in place for determining that the acquisition authorized under subsection (a) is targeted at persons reasonably believed to be located outside the United States and that such procedures have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(ii) the procedures referred to in clause (i) are consistent with the requirements of the fourth amendment to the Constitution of the United States and do not permit the intentional targeting of any person who is known at the time of acquisition to be located in the United States;

''(iii) a significant purpose of the acquisition is to obtain foreign intelligence information;

''(iv) the minimization procedures to be used with respect to such acquisition—

''(I) meet the definition of minimization procedures under section 101(h); and

''(II) have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(v) the acquisition involves obtaining the foreign intelligence information from or with the assistance of an electronic communication service provider; and

''(vi) the acquisition does not constitute electronic surveillance, as limited by section 701; and

''(B) be supported, as appropriate, by the affidavit of any appropriate official in the area of national security who is—

''(i) appointed by the President, by and with the consent of the Senate; or

''(ii) the head of any element of the intelligence community.

''(3) LIMITATION.—A certification made under this subsection is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under subsection (a) will be directed or conducted.

''(4) SUBMISSION TO THE COURT.—The Attorney General shall transmit a copy of a certification made under this subsection, and any supporting affidavit, under seal to the Foreign Intelligence Surveillance Court as soon as possible, but in no event more than 5 days after such certification is made. Such certification shall be maintained under security measures adopted by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence.

''(5) REVIEW.—The certification required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(h) DIRECTIVES.—

''(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communication service provider to—

''(A) immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target; and

''(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain.

''(2) COMPENSATION.—The Government shall compensate, at the prevailing rate, an electronic communication service provider for providing information, facilities, or assistance pursuant to paragraph (1).

''(3) RELEASE FROM LIABILITY.—Notwithstanding any other law, no cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with a directive issued pursuant to paragraph (1).

''(4) CHALLENGING OF DIRECTIVES.—

''(A) AUTHORITY TO CHALLENGE.—An electronic communication service provider receiving a directive issued pursuant to paragraph (1) may challenge the directive by filing a petition with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign the petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that the directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with the directive. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTINUED EFFECT.—Any directive not explicitly modified or set aside under this paragraph shall remain in full effect.

''(5) ENFORCEMENT OF DIRECTIVES.—

''(A) ORDER TO COMPEL.—In the case of a failure to comply with a directive issued pursuant to paragraph (1), the Attorney General may file a petition for an order to compel compliance with the directive with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition shall issue an order requiring the electronic communication service provider to comply with the directive if the judge finds that the directive was issued in accordance with paragraph (1), meets the requirements of this section, and is otherwise lawful. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this paragraph may be punished by the Court as contempt of court.

''(E) PROCESS.—Any process under this paragraph may be served in any judicial district in which the electronic communication service provider may be found.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition with the Foreign Intelligence Surveillance Court of Review for review of the decision issued pursuant to paragraph (4) or (5) not later than 7 days after the issuance of such decision. The Court of Review shall have jurisdiction to consider such a petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

''(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(i) JUDICIAL REVIEW.—

''(1) IN GENERAL.—

''(A) REVIEW BY THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall have jurisdiction to review any certification required by subsection (d) or targeting and minimization procedures adopted pursuant to subsections (e) and (f).

''(B) SUBMISSION TO THE COURT.—The Attorney General shall submit to the Court any such certification or procedure, or amendment thereto, not later than 5 days after making or amending the certification or adopting or amending the procedures.

''(2) CERTIFICATIONS.—The Court shall review a certification provided under subsection (g) to determine whether the certification contains all the required elements.

''(3) TARGETING PROCEDURES.—The Court shall review the targeting procedures required by subsection (e) to assess whether the procedures are reasonably designed to ensure that the acquisition authorized under subsection (a) is limited to the targeting of persons reasonably believed to be located outside the United States.

''(4) MINIMIZATION PROCEDURES.—The Court shall review the minimization procedures required by subsection (f) to assess whether such procedures meet the definition of minimization procedures under section 101(h).

''(5) ORDERS.—

''(A) APPROVAL.—If the Court finds that a certification required by subsection (g) contains all of the required elements and that the targeting and minimization procedures required by subsections (e) and (f) are consistent with the requirements of those subsections and with the fourth amendment to the Constitution of the United States, the Court shall enter an order approving the continued use of the procedures for the acquisition authorized under subsection (a).

''(B) CORRECTION OF DEFICIENCIES.—If the Court finds that a certification required by subsection (g) does not contain all of the required elements, or that the procedures required by subsections (e) and (f) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government's election and to the extent required by the Court's order—

''(i) correct any deficiency identified by the Court's order not later than 30 days after the date the Court issues the order; or

''(ii) cease the acquisition authorized under subsection (a).

''(C) REQUIREMENT FOR WRITTEN STATEMENT.—In support of its orders under this subsection, the Court shall provide, simultaneously with the orders, for the record a written statement of its reasons.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government may appeal any order under this section to the Foreign Intelligence Surveillance Court of Review, which shall have jurisdiction to review such order. For any decision affirming, reversing, or modifying an order of the Foreign Intelligence Surveillance Court, the Court of Review shall provide for the record a written statement of its reasons.

''(B) CONTINUATION OF ACQUISITION PENDING REHEARING OR APPEAL.—Any acquisitions affected by an order under paragraph (5)(B) may continue—

''(i) during the pending of any rehearing of the order by the Court en banc; and

''(ii) during the pendency of any appeal of the order to the Foreign Intelligence Surveillance Court of Review.

''(C) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(j) JUDICIAL PROCEEDINGS.—Judicial proceedings under this section shall be conducted as expeditiously as possible.

''(k) MAINTENANCE OF RECORDS.—

''(1) STANDARDS.—A record of a proceeding under this section, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures adopted by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(3) RETENTION OF RECORDS.—A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.

''(l) OVERSIGHT.—

''(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the Attorney General and Director of National Intelligence shall assess compliance with the targeting and minimization procedures required by subsections (e) and (f) and shall submit each such assessment to—

''(A) the Foreign Intelligence Surveillance Court; and

''(B) the congressional intelligence committees.

''(2) AGENCY ASSESSMENT.—The Inspectors General of the Department of Justice and of any element of the intelligence community authorized to acquire foreign intelligence information under subsection (a)—

''(A) are authorized to review the compliance of their agency or element with the targeting and minimization procedures required by subsections (e) and (f);

''(B) with respect to acquisitions authorized under subsection (a), shall review the number of disseminated intelligence reports containing a reference to a United States person identity and the number of United States person identities subsequently disseminated by the element concerned in response to requests for identities that were not referred to by name or title in the original reporting;

''(C) with respect to acquisitions authorized under subsection (a), shall review the number of targets that were later determined to be located in the United States and the number of persons located in the United States whose communications were reviewed; and

''(D) shall provide each such review to—

''(i) the Attorney General;

''(ii) the Director of National Intelligence; and

''(iii) the congressional intelligence committees.

''(3) ANNUAL REVIEW.—

''(A) REQUIREMENT TO CONDUCT.—The head of an element of the intelligence community conducting an acquisition authorized under subsection (a) shall direct the element to conduct an annual review to determine whether there is reason to believe that foreign intelligence information has been or will be obtained from the acquisition. The annual review shall provide, with respect to such acquisitions authorized under subsection (a)—

''(i) an accounting of the number of disseminated intelligence reports containing a reference to a United States person identity;

''(ii) an accounting of the number of United States person identities subsequently disseminated by that element in response to requests for identities that were not referred to by name or title in the original reporting; and

''(iii) the number of targets that were later determined to be located in the United States and the number of persons located in the United States whose communications were reviewed.

''(B) USE OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall use each such review to evaluate the adequacy of the minimization procedures utilized by such element or the application of the minimization procedures to a particular acquisition authorized under subsection (a).

''(C) PROVISION OF REVIEW TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall provide such review to the Foreign Intelligence Surveillance Court.

''(4) REPORTS TO CONGRESS.—

''(A) SEMIANNUAL REPORT.—Not less frequently than once every 6 months, the Attorney General shall fully inform, in a manner consistent with national security, the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning the implementation of this Act.

''(B) CONTENT.—Each report made under subparagraph (A) shall include—

''(i) any certifications made under subsection (g) during the reporting period;

''(ii) any directives issued under subsection (h) during the reporting period;

''(iii) the judicial review during the reporting period of any such certifications and targeting and minimization procedures utilized with respect to such acquisition, including a copy of any order or pleading in connection with such review that contains a significant legal interpretation of the provisions of this Act;

''(iv) any actions taken to challenge or enforce a directive under paragraphs (4) or (5) of subsections (h);

''(v) any compliance reviews conducted by the Department of Justice or the Office of the Director of National Intelligence of acquisitions authorized under subsection (a);

''(vi) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under subsection (h), including—

''(I) incidents of noncompliance by an element of the intelligence community with procedures adopted pursuant to subsections (e) and (f); and

''(II) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issued a directive under subsection (h);

''(vii) any procedures implementing this section; and

''(viii) any annual review conducted pursuant to paragraph (3).

''SEC. 704. USE OF INFORMATION ACQUIRED UNDER SECTION 703.

''Information acquired from an acquisition conducted under section 703 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106, except for the purposes of subsection (j) of such section.''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking the item relating to title VII;

(2) by striking the item relating to section 701; and

(3) by adding at the end the following:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''Sec. 701. Limitation on definition of electronic surveillance.

''Sec. 702. Definitions.

''Sec. 703. Procedures for acquiring the communications of certain persons outside the United States.

''Sec. 704. Use of information acquired under section 703.''.

(c) SUNSET.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a)(2) and (b) shall cease to have effect on December 31, 2013.

(2) CONTINUING APPLICABILITY.—Section 703(h)(3) of the Foreign Intelligence Surveillance Act of 1978 (as amended by subsection (a)) shall remain in effect with respect to any directive issued pursuant to section 703(h) of that Act (as so amended) during the period such directive was in effect. The use of information acquired by an acquisition conducted under section 703 of that Act (as so amended) shall continue to be governed by the provisions of section 704 of that Act (as so amended).

SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF DOMESTIC COMMUNICATIONS MAY BE CONDUCTED.

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

''STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF DOMESTIC COMMUNICATIONS MAY BE CONDUCTED

''SEC. 112. Chapters 119 and 121 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance (as defined in section 101(f), regardless of the limitation of section 701) and the interception of domestic wire, oral, or electronic communications may be conducted.''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after the item relating to section 111, the following:

''Sec. 112. Statement of exclusive means by which electronic surveillance and interception of domestic communications may be conducted.''.

SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT ORDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) INCLUSION OF CERTAIN ORDERS IN SEMI-ANNUAL REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended by striking ''(not including orders)'' and inserting '', orders,''.

(b) REPORTS BY ATTORNEY GENERAL ON CERTAIN OTHER ORDERS.—Such section 601 is further amended by adding at the end the following new subsection:

''(c) The Attorney General shall submit to the committees of Congress referred to in

subsection (a) a copy of any decision, order, or opinion issued by the court established under section 103(a) or the court of review established under section 103(b) that includes significant construction or interpretation of any provision of this Act not later than 45 days after such decision, order, or opinion is issued.''.

SEC. 104. APPLICATIONS FOR COURT ORDERS.

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) and (11);

(B) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively;

(C) in paragraph (5), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if designated by the President as a certifying official—'';

(E) in paragraph (7), as redesignated by subparagraph (B) of this paragraph, by striking ''statement of'' and inserting ''summary statement of'';

(F) in paragraph (8), as redesignated by subparagraph (B) of this paragraph, by adding ''and'' at the end; and

(G) in paragraph (9), as redesignated by subparagraph (B) of this paragraph, by striking ''; and'' and inserting a period;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3) of this subsection, by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

SEC. 105. ISSUANCE OF AN ORDER.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (b), by striking ''(a)(3)'' and inserting ''(a)(2)'';

(3) in subsection (c)(1)—

(A) in subparagraph (D), by adding ''and'' at the end;

(B) in subparagraph (E), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (F);

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(6) by amending subsection (e), as redesignated by paragraph (5) of this section, to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such electronic surveillance exists;

''(C) informs, either personally or through a designee, a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

''(D) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not later than 168 hours after the Attorney General authorizes such surveillance.

''(2) If the Attorney General authorizes the emergency employment of electronic surveillance under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5) In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(6) The Attorney General shall assess compliance with the requirements of paragraph (5).''; and

(7) by adding at the end the following:

''(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, upon the request of the applicant, the judge shall also authorize the installation and use of pen registers and trap and trace devices, and direct the disclosure of the information set forth in section 402(d)(2).''.

SEC. 106. USE OF INFORMATION.

Subsection (i) of section 106 of the Foreign Intelligence Surveillance Act of 1978 (8 U.S.C. 1806) is amended by striking ''radio communication'' and inserting ''communication''.

SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.

(a) APPLICATIONS.—Section 303 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1823) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(C) in paragraph (2), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (3)(C), as redesignated by subparagraph (B) of this paragraph, by inserting ''or is about to be'' before ''owned''; and

(E) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if designated by the President as a certifying official—''; and

(2) in subsection (d)(1)(A), by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

(b) ORDERS.—Section 304 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(2) by amending subsection (e) to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of a physical search if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of a physical search to obtain foreign intelligence information before an order authorizing such physical search can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such physical search exists;

''(C) informs, either personally or through a designee, a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency physical search; and

''(D) makes an application in accordance with this title to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 168 hours after the Attorney General authorizes such physical search.

''(2) If the Attorney General authorizes the emergency employment of a physical search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such physical search, the physical search shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5)(A) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the physical search, no information obtained or evidence derived from such physical search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such physical search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(B) The Attorney General shall assess compliance with the requirements of subparagraph (A).''.

(c) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 304(a)(4), as redesignated by subsection (b) of this section, by striking ''303(a)(7)(E)'' and inserting ''303(a)(6)(E)''; and

(2) in section 305(k)(2), by striking ''303(a)(7)'' and inserting ''303(a)(6)''.

SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.

Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a)(2), by striking ''48 hours'' and inserting ''168 hours''; and

(2) in subsection (c)(1)(C), by striking ''48 hours'' and inserting ''168 hours''.

SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) DESIGNATION OF JUDGES.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by inserting ''at least'' before ''seven of the United States judicial circuits''.

(b) EN BANC AUTHORITY.—

(1) IN GENERAL.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a) of this section, is further amended—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by adding at the end the following new paragraph:

''(2)(A) The court established under this subsection may, on its own initiative, or upon the request of the Government in any proceeding or a party under section 501(f) or paragraph (4) or (5) of section 703(h), hold a hearing or rehearing, en banc, when ordered by a majority of the judges that constitute such court upon a determination that—

''(i) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or

''(ii) the proceeding involves a question of exceptional importance.

''(B) Any authority granted by this Act to a judge of the court established under this subsection may be exercised by the court en banc. When exercising such authority, the court en banc shall comply with any requirements of this Act on the exercise of such authority.

''(C) For purposes of this paragraph, the court en banc shall consist of all judges who constitute the court established under this subsection.''.

(2) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 is further amended—

(A) in subsection (a) of section 103, as amended by this subsection, by inserting ''(except when sitting en banc under paragraph (2))'' after ''no judge designated under this subsection''; and

(B) in section 302(c) (50 U.S.C. 1822(c)), by inserting ''(except when sitting en banc)'' after ''except that no judge''.

(c) STAY OR MODIFICATION DURING AN APPEAL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f)(1) A judge of the court established under subsection (a), the court established under subsection (b) or a judge of that court, or the Supreme Court of the United States or a justice of that court, may, in accordance with the rules of their respective courts, enter a stay of an order or an order modifying an order of the court established under subsection (a) or the court established under subsection (b) entered under any title of this Act, while the court established under subsection (a) conducts a rehearing, while an appeal is pending to the court established under subsection (b), or while a petition of certiorari is pending in the Supreme Court of the United States, or during the pendency of any review by that court.

''(2) The authority described in paragraph (1) shall apply to an order entered under any provision of this Act.''.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 703''; and

(2) in paragraph (2), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 703''.

TITLE II—OTHER PROVISIONS

SEC. 201. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act, any such amendments, and of the application of such provisions to other persons and circumstances shall not be affected thereby.

SEC. 202. EFFECTIVE DATE; REPEAL; TRANSITION PROCEDURES.

(a) IN GENERAL.—Except as provided in subsection (c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) REPEAL.—

(1) IN GENERAL.—Except as provided in subsection (c), sections 105A, 105B, and 105C of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a, 1805b, and 1805c) are repealed.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to sections 105A, 105B, and 105C.

(c) TRANSITIONS PROCEDURES.—

(1) PROTECTION FROM LIABILITY.—Notwithstanding subsection (b)(1), subsection (l) of section 105B of the Foreign Intelligence Surveillance Act of 1978 shall remain in effect with respect to any directives issued pursuant to such section 105B for information, facilities, or assistance provided during the period such directive was or is in effect.

(2) ORDERS IN EFFECT.—

(A) ORDERS IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(i) any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 or section 6(b) of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 556) shall remain in effect until the date of expiration of such order; and

(ii) at the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall reauthorize such order if the facts and circumstances continue to justify issuance of such order under the provisions of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

(B) ORDERS IN EFFECT ON DECEMBER 31, 2013.—Any order issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2013, shall continue in effect until the date of the expiration of such order. Any such order shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended.

(3) AUTHORIZATIONS AND DIRECTIVES IN EFFECT.—

(A) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978, any authorization or directive in effect on the date of the enactment of this Act issued pursuant to the Protect America Act of 2007, or any amendment made by that Act, shall remain in effect until the date of expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 552), and the amendment made by that Act, and, except as provided in paragraph (4) of this subsection, any acquisition pursuant to such authorization or directive shall be deemed not to constitute electronic surveillance (as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)), as construed in accordance with section 105A of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a)).

(B) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DECEMBER 31, 2013.—Any authorization or directive issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2013, shall continue in effect until the date of the expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended, and, except as provided in section 704 of the Foreign Intelligence Surveillance Act of 1978, as so amended, any acquisition pursuant to such authorization or directive shall be deemed not to constitute electronic surveillance (as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978, to the extent that such section 101(f) is limited by section 701 of the Foreign Intelligence Surveillance Act of 1978, as so amended).

(4) USE OF INFORMATION ACQUIRED UNDER PROTECT AMERICA ACT.—Information acquired from an acquisition conducted under the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 552), and the amendments made by that Act, shall be deemed to be information acquired from an electronic surveillance pursuant to title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) for purposes of section 106 of that Act (50 U.S.C. 1806), except for purposes of subsection (j) of such section.

(5) NEW ORDERS.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(A) the government may file an application for an order under the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act; and

(B) the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall enter an order granting such an application if the application meets the requirements of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

(6) EXTANT AUTHORIZATIONS.—At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act.

(7) APPLICABLE PROVISIONS.—Any surveillance conducted pursuant to an order entered pursuant to this subsection shall be

subject to the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

By Mr. REID:

S. 2441. A bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 2441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2007'' or the ''FISA Amendments Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

SEC. 101. TARGETING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking title VII; and

(2) by adding after title VI the following new title:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''SEC. 701. DEFINITIONS.

''In this title:

''(1) IN GENERAL.—The terms 'agent of a foreign power', 'Attorney General', 'contents', 'electronic surveillance', 'foreign intelligence information', 'foreign power', 'minimization procedures', 'person', 'United States', and 'United States person' shall have the meanings given such terms in section 101.

''(2) ADDITIONAL DEFINITIONS.—

''(A) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(i) the Select Committee on Intelligence of the Senate; and

''(ii) the Permanent Select Committee on Intelligence of the House of Representatives.

''(B) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The terms 'Foreign Intelligence Surveillance Court' and 'Court' mean the court established by section 103(a).

''(C) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The terms 'Foreign Intelligence Surveillance Court of Review' and 'Court of Review' mean the court established by section 103(b).

''(D) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

''(i) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

''(ii) a provider of electronic communications service, as that term is defined in section 2510 of title 18, United States Code;

''(iii) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

''(iv) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or

''(v) an officer, employee, or agent of an entity described in clause (i), (ii), (iii), or (iv).

''(E) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''SEC. 702. PROCEDURES FOR ACQUIRING THE COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES.

''(a) AUTHORIZATION.—Notwithstanding any other provision of law, including title I, the Attorney General and the Director of National Intelligence may authorize jointly, for periods of up to 1 year, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

''(b) LIMITATIONS.—An acquisition authorized under subsection (a)—

''(1) may not intentionally target any person known at the time of acquisition to be located in the United States;

''(2) may not intentionally target a person reasonably believed to be outside the United States if a significant purpose of such acquisition is to acquire the communications of a specific person reasonably believed to be located in the United States, except in accordance with title I; and

''(3) shall be conducted in a manner consistent with the fourth amendment to the Constitution of the United States.

''(c) UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES.—

''(1) ACQUISITION INSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—An acquisition authorized under subsection (a) that constitutes electronic surveillance and occurs inside the United States may not intentionally target a United States person reasonably believed to be outside the United States, except in accordance with the procedures under title I.

''(2) ACQUISITION OUTSIDE THE UNITED STATES OF UNITED STATES PERSONS OUTSIDE THE UNITED STATES.—

''(A) IN GENERAL.—An acquisition by an electronic, mechanical, or other surveillance device outside the United States may not intentionally target a United States person reasonably believed to be outside the United States to acquire the contents of a wire or radio communication sent by or intended to be received by that United States person under circumstances in which a person has reasonable expectation of privacy and a warrant would be required for law enforcement purposes if the technique were used inside the United States unless—

''(i) the Foreign Intelligence Surveillance Court has entered an order approving electronic surveillance of that United States person under section 105, or in the case of an emergency situation, electronic surveillance against the target is being conducted in a manner consistent with title I; or

''(ii)(I) the Foreign Intelligence Surveillance Court has entered a order under subparagraph (B) that there is probable cause to believe that the United States person is a foreign power or an agent of a foreign power;

''(II) the Attorney General has established minimization procedures for that acquisition that meet the definition of minimization procedures under section 101(h); and

''(III) the dissemination provisions of the minimization procedures described in subclause (II) have been approved under subparagraph (C).

''(B) PROBABLE CAUSE DETERMINATION; REVIEW.—

''(i) IN GENERAL.—The Attorney General may submit to the Foreign Intelligence Surveillance Court the determination of the Attorney General, together with any supporting affidavits, that a United States person who is outside the United States is a foreign power or an agent of a foreign power.

''(ii) REVIEW.—The Court shall review, any probable cause determination submitted by the Attorney General under this subparagraph. The review under this clause shall be limited to whether, on the basis of the facts submitted by the Attorney General, there is probable cause to believe that the United States person who is outside the United States is a foreign power or an agent of a foreign power.

''(iii) ORDER.—If the Court, after conducting a review under clause (ii), determines that there is probable cause to believe that the United States person is a foreign power or an agent of a foreign power, the court shall issue an order approving the acquisition. An order under this clause shall be effective for 90 days, and may be renewed for additional 90-day periods.

''(iv) NO PROBABLE CAUSE.—If the Court, after conducting a review under clause (ii), determines that there is not probable cause to believe that a United States person is a foreign power or an agent of a foreign power, it shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause to the Foreign Intelligence Surveillance Court of Review.

''(C) REVIEW OF MINIMIZATION PROCEDURES.—

''(i) IN GENERAL.—The Foreign Intelligence Surveillance Court shall review the minimization procedures applicable to dissemination of information obtained through an acquisition authorized under subparagraph (A) to assess whether such procedures meet the definition of minimization procedures under section 101(h) with respect to dissemination.

''(ii) REVIEW.—The Court shall issue an order approving the procedures applicable to dissemination as submitted or as modified to comply with section 101(h).

''(iii) PROCEDURES DO NOT MEET DEFINITION.—If the Court determines that the procedures applicable to dissemination of information obtained through an acquisition authorized under subparagraph (A) do not meet the definition of minimization procedures under section 101(h) with respect to dissemination, it shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal an order under this clause to the Foreign Intelligence Surveillance Court of Review.

''(D) EMERGENCY PROCEDURES.—

''(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, the Attorney General may authorize the emergency employment of an acquisition under subparagraph (A) if the Attorney General—

''(I) reasonably determines that—

''(aa) an emergency situation exists with respect to the employment of an acquisition under subparagraph (A) before a determination of probable cause can with due diligence be obtained; and

''(bb) the factual basis for issuance of a determination under subparagraph (B) to approve such an acquisition exists;

''(II) informs a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency acquisition;

''(III) submits a request in accordance with subparagraph (B) to the judge notified under subclause (II) as soon as practicable, but later than 72 hours after the Attorney General authorizes such an acquisition; and

''(IV) requires that minimization procedures meeting the definition of minimization procedures under section 101(h) be followed.

''(ii) TERMINATION.—In the absence of a judicial determination finding probable cause to believe that the United States person that is the subject of an emergency employment of an acquisition under clause (i) is a foreign power or an agent of a foreign power, the emergency employment of an acquisition under clause (i) shall terminate when the information sought is obtained, when the request for a determination is denied, or after the expiration of 72 hours from the time of authorization by the Attorney General, whichever is earliest.

''(iii) USE OF INFORMATION.—If the Court determines that there is not probable cause to believe that a United States is a foreign power or an agent of a foreign power in response to a request for a determination under clause (i)(III), or in any other case where the emergency employment of an acquisition under this subparagraph is terminated and no determination finding probable cause is issued, no information obtained or evidence derived from such acquisition shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(3) PROCEDURES.—

''(A) SUBMITTAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—Not later than 30 days after the date of the enactment of the FISA Amendments Act of 2007, the Attorney General shall submit to the Foreign Intelligence Surveillance Court the procedures to be used in determining whether a target reasonably believed to be outside the United States is a United States person.

''(B) REVIEW BY FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall review, the procedures submitted under subparagraph (A), and shall approve those procedures if they are reasonably designed to determine whether a target reasonably believed to be outside the United States is a United States person. If the Court concludes otherwise, the Court shall enter an order so stating and provide a written statement for the record of the reasons for such determination. The Government may appeal such an order to the Foreign Intelligence Surveillance Court of Review.

''(C) USE IN TARGETING.—Any targeting of persons reasonably believed to be located outside the United States shall use the procedures approved by the Foreign Intelligence Surveillance Court under subparagraph (B). Any new or amended procedures may be used with respect to the targeting of persons reasonably believed to be located outside the United States upon approval of the new or amended procedures by the Court, which shall review such procedures under paragraph (B).

''(4) TRANSITION PROCEDURES CONCERNING THE TARGETING OF UNITED STATES PERSONS OVERSEAS.—Any authorization in effect on the date of enactment of the FISA Amendments Act of 2007 under section 2.5 of Executive Order 12333 to intentionally target a United States person reasonably believed to be located outside the United States, to acquire the contents of a wire or radio communication sent by or intended to be received by that United States person, shall remain in effect, and shall constitute a sufficient basis for conducting such an acquisition of a United States person located outside the United States, until that authorization expires or 90 days after the date of enactment of the FISA Amendments Act of 2007, whichever is earlier.

''(d) CONDUCT OF ACQUISITION.—An acquisition authorized under subsection (a) may be conducted only in accordance with—

''(1) a certification made by the Attorney General and the Director of National Intelligence pursuant to subsection (g); and

''(2) the targeting and minimization procedures required pursuant to subsections (e) and (f).

''(e) TARGETING PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt targeting procedures that are reasonably designed to ensure that any acquisition authorized under subsection (a) is limited to targeting persons reasonably believed to be located outside the United States, and that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a specific person reasonably believed to be located in the United States.

''(2) JUDICIAL REVIEW.—The procedures referred to in paragraph (1) shall be subject to judicial review pursuant to subsection (i).

''(f) MINIMIZATION PROCEDURES.—

''(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt, consistent with the requirements of section 101(h), minimization procedures for acquisitions authorized under subsection (a).

''(2) JUDICIAL REVIEW.—The minimization procedures required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(g) CERTIFICATION.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Subject to subparagraph (B), prior to the initiation of an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence shall provide, under oath, a written certification, as described in this subsection.

''(B) EXCEPTION.—If the Attorney General and the Director of National Intelligence determine that immediate action by the Government is required and time does not permit the preparation of a certification under this subsection prior to the initiation of an acquisition, the Attorney General and the Director of National Intelligence shall prepare such certification, including such determination, as soon as possible but in no event more than 168 hours after such determination is made.

''(2) REQUIREMENTS.—A certification made under this subsection shall—

''(A) attest that—

''(i) there are reasonable procedures in place for determining that the acquisition authorized under subsection (a) is targeted at persons reasonably believed to be located outside the United States and that such procedures have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(ii) the procedures referred to in clause (i) are consistent with the requirements of the fourth amendment to the Constitution of the United States and do not permit the intentional targeting of any person who is known at the time of acquisition to be located in the United States;

''(iii) the procedures referred to in clause (i) require that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a specific person reasonably believed to be located in the United States;

''(iv) a significant purpose of the acquisition is to obtain foreign intelligence information;

''(v) the minimization procedures to be used with respect to such acquisition—

''(I) meet the definition of minimization procedures under section 101(h); and

''(II) have been approved by, or will promptly be submitted for approval by, the Foreign Intelligence Surveillance Court pursuant to subsection (i);

''(vi) the acquisition involves obtaining the foreign intelligence information from or with the assistance of an electronic communication service provider; and

''(vii) the acquisition is limited to communications to which at least 1 party is a specific individual target who is reasonably believed to be located outside of the United States, and a significant purpose of the acquisition of the communications of any target is to obtain foreign intelligence information; and

''(B) be supported, as appropriate, by the affidavit of any appropriate official in the area of national security who is—

''(i) appointed by the President, by and with the consent of the Senate; or

''(ii) the head of any element of the intelligence community.

''(3) LIMITATION.—A certification made under this subsection is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under subsection (a) will be directed or conducted.

''(4) SUBMISSION TO THE COURT.—The Attorney General shall transmit a copy of a certification made under this subsection, and any supporting affidavit, under seal to the Foreign Intelligence Surveillance Court as soon as possible, but in no event more than 5 days after such certification is made. Such certification shall be maintained under security measures adopted by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence.

''(5) REVIEW.—The certification required by this subsection shall be subject to judicial review pursuant to subsection (i).

''(h) DIRECTIVES.—

''(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communication service provider to—

''(A) immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target; and

''(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain.

''(2) COMPENSATION.—The Government shall compensate, at the prevailing rate, an electronic communication service provider for providing information, facilities, or assistance pursuant to paragraph (1).

''(3) RELEASE FROM LIABILITY.—Notwithstanding any other law, no cause of action shall lie in any court against any electronic communication service provider for providing any information, facilities, or assistance in accordance with a directive issued pursuant to paragraph (1).

''(4) CHALLENGING OF DIRECTIVES.—

''(A) AUTHORITY TO CHALLENGE.—An electronic communication service provider receiving a directive issued pursuant to paragraph (1) may challenge the directive by filing a petition with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign the petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that the directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with the directive. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTINUED EFFECT.—Any directive not explicitly modified or set aside under this paragraph shall remain in full effect.

''(5) ENFORCEMENT OF DIRECTIVES.—

''(A) ORDER TO COMPEL.—In the case of a failure to comply with a directive issued pursuant to paragraph (1), the Attorney General may file a petition for an order to compel compliance with the directive with the Foreign Intelligence Surveillance Court.

''(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1) not later than 24 hours after the filing of the petition.

''(C) STANDARDS FOR REVIEW.—A judge considering a petition shall issue an order requiring the electronic communication service provider to comply with the directive if the judge finds that the directive was issued in accordance with paragraph (1), meets the requirements of this section, and is otherwise lawful. The judge shall provide a written statement for the record of the reasons for a determination under this paragraph.

''(D) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this paragraph may be punished by the Court as contempt of court.

''(E) PROCESS.—Any process under this paragraph may be served in any judicial district in which the electronic communication service provider may be found.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition with the Foreign Intelligence Surveillance Court of Review for review of the decision issued pursuant to paragraph (4) or (5) not later than 7 days after the issuance of such decision. The Court of Review shall have jurisdiction to consider such a petition and shall provide a written statement for the record of the reasons for a decision under this paragraph.

''(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic communication service provider receiving a directive issued pursuant to paragraph (1) may file a petition for a writ of certiorari for review of the decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(i) JUDICIAL REVIEW.—

''(1) IN GENERAL.—

''(A) REVIEW BY THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign Intelligence Surveillance Court shall have jurisdiction to review any certification required by subsection (d) or targeting and minimization procedures adopted pursuant to subsections (e) and (f).

''(B) SUBMISSION TO THE COURT.—The Attorney General shall submit to the Court any such certification or procedure, or amendment thereto, not later than 5 days after making or amending the certification or adopting or amending the procedures.

''(2) CERTIFICATIONS.—The Court shall review a certification provided under subsection (g) to determine whether the certification contains all the required elements.

''(3) TARGETING PROCEDURES.—The Court shall review the targeting procedures required by subsection (e) to assess whether the procedures are reasonably designed to ensure that the acquisition authorized under subsection (a) is limited to the targeting of persons reasonably believed to be located outside the United States, and are reasonably designed to ensure that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a specific person reasonably believed to be located in the United States.

''(4) MINIMIZATION PROCEDURES.—The Court shall review the minimization procedures required by subsection (f) to assess whether such procedures meet the definition of minimization procedures under section 101(h).

''(5) ORDERS.—

''(A) APPROVAL.—If the Court finds that a certification required by subsection (g) contains all of the required elements and that the targeting and minimization procedures required by subsections (e) and (f) are consistent with the requirements of those subsections and with the fourth amendment to the Constitution of the United States, the Court shall enter an order approving the continued use of the procedures for the acquisition authorized under subsection (a).

''(B) CORRECTION OF DEFICIENCIES.—

''(i) IN GENERAL.—If the Court finds that a certification required by subsection (g) does not contain all of the required elements, or that the procedures required by subsections (e) and (f) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government's election and to the extent required by the Court's order—

''(I) correct any deficiency identified by the Court's order not later than 30 days after the date the Court issues the order; or

''(II) cease the acquisition authorized under subsection (a).

''(ii) LIMITATION ON USE OF INFORMATION.—

''(I) IN GENERAL.—Except as provided in subclause (II), no information obtained or evidence derived from an acquisition under clause (i)(I) shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(II) EXCEPTION.—If the Government corrects any deficiency identified by the Court's order under clause (i), the Court may permit the use or disclosure of information acquired before the date of the correction pursuant to such minimization procedures as the Court shall establish for purposes of this clause.

''(C) REQUIREMENT FOR WRITTEN STATEMENT.—In support of its orders under this subsection, the Court shall provide, simultaneously with the orders, for the record a written statement of its reasons.

''(6) APPEAL.—

''(A) APPEAL TO THE COURT OF REVIEW.—The Government may appeal any order under this section to the Foreign Intelligence Surveillance Court of Review, which shall have jurisdiction to review such order. For any decision affirming, reversing, or modifying an order of the Foreign Intelligence Surveillance Court, the Court of Review shall provide for the record a written statement of its reasons.

''(B) STAY PENDING APPEAL.—The Government may move for a stay of any order of the Foreign Intelligence Surveillance Court under paragraph (5)(B)(i) pending review by the Court en banc or pending appeal to the Foreign Intelligence Surveillance Court of Review.

''(C) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for a writ of certiorari for review of a decision of the Court of Review issued under subparagraph (A). The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

''(7) COMPLIANCE REVIEW.—The Court may review and assess compliance with the minimization procedures submitted to the Court pursuant to subsections (c) and (f) by reviewing the semiannual assessments submitted by the Attorney General and the Director of National Intelligence pursuant to subsection (l)(1) with respect to compliance with minimization procedures. In conducting a review under this paragraph, the Court may, to the extent necessary, require the Government to provide additional information regarding the acquisition, retention, or dissemination of information concerning United States persons during the course of an acquisition authorized under subsection (a).

''(8) REMEDIAL AUTHORITY.—The Foreign Intelligence Surveillance Court shall have authority to fashion remedies as necessary to enforce—

''(A) any order issued under this section; and

''(B) compliance with any such order.

''(j) JUDICIAL PROCEEDINGS.—Judicial proceedings under this section shall be conducted as expeditiously as possible.

''(k) MAINTENANCE OF RECORDS.—

''(1) STANDARDS.—A record of a proceeding under this section, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures adopted by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(3) RETENTION OF RECORDS.—A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.

''(l) OVERSIGHT.—

''(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the Attorney General and Director of National Intelligence shall assess compliance with the targeting and minimization procedures required by subsections (c), (e), and (f) and shall submit each such assessment to—

''(A) the Foreign Intelligence Surveillance Court; and

''(B) the congressional intelligence committees.

''(2) AGENCY ASSESSMENT.—The Inspectors General of the Department of Justice and of any element of the intelligence community authorized to acquire foreign intelligence information under subsection (a)—

''(A) are authorized to review the compliance of their agency or element with the targeting and minimization procedures required by subsections (c), (e), and (f);

''(B) with respect to acquisitions authorized under subsection (a), shall review the number of disseminated intelligence reports containing a reference to a United States person identity and the number of United States person identities subsequently disseminated by the element concerned in response to requests for identities that were not referred to by name or title in the original reporting;

''(C) with respect to acquisitions authorized under subsection (a), shall review the number of targets that were later determined to be located in the United States and the number of persons located in the United States whose communications were reviewed; and

''(D) shall provide each such review to—

''(i) the Attorney General;

''(ii) the Director of National Intelligence; and

''(iii) the congressional intelligence committees.

''(3) ANNUAL REVIEW.—

''(A) REQUIREMENT TO CONDUCT.—The head of an element of the intelligence community conducting an acquisition authorized under subsection (a) shall direct the element to conduct an annual review to determine whether there is reason to believe that foreign intelligence information has been or will be obtained from the acquisition. The annual review shall provide, with respect to such acquisitions authorized under subsection (a)—

''(i) an accounting of the number of disseminated intelligence reports containing a reference to a United States person identity;

''(ii) an accounting of the number of United States person identities subsequently disseminated by that element in response to requests for identities that were not referred to by name or title in the original reporting; and

''(iii) the number of targets that were later determined to be located in the United States and the number of persons located in the United States whose communications were reviewed.

''(B) USE OF REVIEW.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall use each such review to evaluate the adequacy of the minimization procedures utilized by such element or the application of the minimization procedures to a particular acquisition authorized under subsection (a).

''(C) PROVISION OF REVIEW TO FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The head of each element of the intelligence community that conducts an annual review under subparagraph (A) shall provide such review to the Foreign Intelligence Surveillance Court.

''(4) REPORTS TO CONGRESS.—

''(A) SEMIANNUAL REPORT.—Not less frequently than once every 6 months, the Attorney General shall fully inform, in a manner consistent with national security, the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning the implementation of this Act.

''(B) CONTENT.—Each report made under subparagraph (A) shall include—

''(i) any certifications made under subsection (g) during the reporting period;

''(ii) any directives issued under subsection (h) during the reporting period;

''(iii) the judicial review during the reporting period of any such certifications and targeting and minimization procedures utilized with respect to such acquisition, including a copy of any order or pleading in connection with such review that contains a significant legal interpretation of the provisions of this Act;

''(iv) any actions taken to challenge or enforce a directive under paragraphs (4) or (5) of subsections (h);

''(v) any compliance reviews conducted by the Department of Justice or the Office of the Director of National Intelligence of acquisitions authorized under subsection (a);

''(vi) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under subsection (h), including—

''(I) incidents of noncompliance by an element of the intelligence community with procedures adopted pursuant to subsections (c), (e), and (f); and

''(II) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issued a directive under subsection (h);

''(vii) any procedures implementing this section; and

''(viii) any annual review conducted pursuant to paragraph (3).

''SEC. 703. USE OF INFORMATION ACQUIRED UNDER SECTION 702.

''Information acquired from an acquisition conducted under section 702 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for purposes of section 106, except for the purposes of subsection (j) of such section.''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by striking the item relating to title VII;

(2) by striking the item relating to section 701; and

(3) by adding at the end the following:

''TITLE VII—ADDITIONAL PROCEDURES FOR TARGETING COMMUNICATIONS OF CERTAIN PERSONS OUTSIDE THE UNITED STATES

''Sec. 701. Definitions.

''Sec. 702. Procedures for acquiring the communications of certain persons outside the United States.

''Sec. 703. Use of information acquired under section 702.''.

(c) SUNSET.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a)(2) and (b) shall cease to have effect on December 31, 2011.

(2) CONTINUING APPLICABILITY.—Section 702(h)(3) of the Foreign Intelligence Surveillance Act of 1978 (as amended by subsection (a)) shall remain in effect with respect to any directive issued pursuant to section 702(h) of that Act (as so amended) during the period such directive was in effect. The use of information acquired by an acquisition conducted under section 702 of that Act (as so amended) shall continue to be governed by the provisions of section 703 of that Act (as so amended).

SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED.

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

''STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED

''SEC. 112. (a) This Act shall be the exclusive means for targeting United States persons for the purpose of acquiring their communications or communications information for foreign intelligence purposes, whether such persons are inside the United States or outside the United States, except in cases where specific statutory authorization exists to obtain communications information without an order under this Act.

''(b) Chapters 119 and 121 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communications may be conducted.

''(c) Subsections (a) and (b) shall apply unless specific statutory authorization for electronic surveillance, other than as an amendment to this Act, is enacted. Such specific statutory authorization shall be the only exception to subsection (a) and (b).''.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 2511(2)(a) of title 18, United States Code, is amended by adding at the end the following:

''(iii) A certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information shall identify the specific provision of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) that provides an exception from providing a court order, and shall certify that the statutory requirements of such provision have been met.''.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after the item relating to section 111, the following:

''Sec. 112. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.''.

(c) OFFENSE.—Section 109(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809(a)) is amended by striking ''authorized by statute'' each place it appears in such section and inserting ''authorized by this title or chapter 119, 121, or 206 of title 18, United States Code''.

SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT ORDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) INCLUSION OF CERTAIN ORDERS IN SEMI-ANNUAL REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended by striking ''(not including orders)'' and inserting '', orders,''.

(b) REPORTS BY ATTORNEY GENERAL ON CERTAIN OTHER ORDERS.—Such section 601 is further amended by adding at the end the following new subsection:

''(c) SUBMISSIONS TO CONGRESS.—The Attorney General shall submit to the committees of Congress referred to in subsection (a)—

''(1) a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this Act, and any pleadings associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued; and

''(2) a copy of any such decision, order, or opinion, and the pleadings associated with such decision, order, or opinion, that was issued during the 5-year period ending on the date of the enactment of the FISA Amendments Act of 2007 and not previously submitted in a report under subsection (a).''.

SEC. 104. APPLICATIONS FOR COURT ORDERS.

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) and (11);

(B) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively;

(C) in paragraph (5), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director of the Federal Bureau of Investigation is unavailable—'';

(E) in paragraph (7), as redesignated by subparagraph (B) of this paragraph, by striking ''statement of'' and inserting ''summary statement of'';

(F) in paragraph (8), as redesignated by subparagraph (B) of this paragraph, by adding ''and'' at the end; and

(G) in paragraph (9), as redesignated by subparagraph (B) of this paragraph, by striking ''; and'' and inserting a period;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3) of this subsection, by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

SEC. 105. ISSUANCE OF AN ORDER.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (b), by striking ''(a)(3)'' and inserting ''(a)(2)'';

(3) in subsection (c)(1)—

(A) in subparagraph (D), by adding ''and'' at the end;

(B) in subparagraph (E), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (F);

(4) by striking subsection (d);

(5) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(6) by amending subsection (e), as redesignated by paragraph (5) of this section, to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such electronic surveillance exists;

''(C) informs, either personally or through a designee, a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

''(D) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not later than 168 hours after the Attorney General authorizes such surveillance.

''(2) If the Attorney General authorizes the emergency employment of electronic surveillance under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5) In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(6) The Attorney General shall assess compliance with the requirements of paragraph (5).''; and

(7) by adding at the end the following:

''(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, upon the request of the applicant, the judge shall also authorize the installation and use of pen registers and trap and trace devices, and direct the disclosure of the information set forth in section 402(d)(2).''.

SEC. 106. USE OF INFORMATION.

Subsection (i) of section 106 of the Foreign Intelligence Surveillance Act of 1978 (8 U.S.C. 1806) is amended by striking ''radio communication'' and inserting ''communication''.

SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.

(a) APPLICATIONS.—Section 303 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1823) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(C) in paragraph (2), as redesignated by subparagraph (B) of this paragraph, by striking ''detailed'';

(D) in paragraph (3)(C), as redesignated by subparagraph (B) of this paragraph, by inserting ''or is about to be'' before ''owned''; and

(E) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, in the matter preceding subparagraph (A)—

(i) by striking ''Affairs or'' and inserting ''Affairs,''; and

(ii) by striking ''Senate—'' and inserting ''Senate, or the Deputy Director of the Federal Bureau of Investigation, if the Director of the Federal Bureau of Investigation is unavailable—''; and

(2) in subsection (d)(1)(A), by striking ''or the Director of National Intelligence'' and inserting ''the Director of National Intelligence, or the Director of the Central Intelligence Agency''.

(b) ORDERS.—Section 304 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(2) by amending subsection (e) to read as follows:

''(e)(1) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of a physical search if the Attorney General—

''(A) determines that an emergency situation exists with respect to the employment of a physical search to obtain foreign intelligence information before an order authorizing such physical search can with due diligence be obtained;

''(B) determines that the factual basis for issuance of an order under this title to approve such physical search exists;

''(C) informs, either personally or through a designee, a judge of the Foreign Intelligence Surveillance Court at the time of such authorization that the decision has been made to employ an emergency physical search; and

''(D) makes an application in accordance with this title to a judge of the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 168 hours after the Attorney General authorizes such physical search.

''(2) If the Attorney General authorizes the emergency employment of a physical search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

''(3) In the absence of a judicial order approving such physical search, the physical search shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest.

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

''(5)(A) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the physical search, no information obtained or evidence derived from such physical search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such physical search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

''(B) The Attorney General shall assess compliance with the requirements of subparagraph (A).''.

(c) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 304(a)(4), as redesignated by subsection (b) of this section, by striking ''303(a)(7)(E)'' and inserting ''303(a)(6)(E)''; and

(2) in section 305(k)(2), by striking ''303(a)(7)'' and inserting ''303(a)(6)''.

SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.

Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a)(2), by striking ''48 hours'' and inserting ''168 hours''; and

(2) in subsection (c)(1)(C), by striking ''48 hours'' and inserting ''168 hours''.

SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) DESIGNATION OF JUDGES.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by inserting ''at least'' before ''seven of the United States judicial circuits''.

(b) EN BANC AUTHORITY.—

(1) IN GENERAL.—Subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a) of this section, is further amended—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by adding at the end the following new paragraph:

''(2)(A) The court established under this subsection may, on its own initiative, or upon the request of the Government in any proceeding or a party under section 501(f) or paragraph (4) or (5) of section 702(h), hold a hearing or rehearing, en banc, when ordered by a majority of the judges that constitute such court upon a determination that—

''(i) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or

''(ii) the proceeding involves a question of exceptional importance.

''(B) Any authority granted by this Act to a judge of the court established under this subsection may be exercised by the court en banc. When exercising such authority, the court en banc shall comply with any requirements of this Act on the exercise of such authority.

''(C) For purposes of this paragraph, the court en banc shall consist of all judges who constitute the court established under this subsection.''.

(2) CONFORMING AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 is further amended—

(A) in subsection (a) of section 103, as amended by this subsection, by inserting ''(except when sitting en banc under paragraph (2))'' after ''no judge designated under this subsection''; and

(B) in section 302(c) (50 U.S.C. 1822(c)), by inserting ''(except when sitting en banc)'' after ''except that no judge''.

(c) STAY OR MODIFICATION DURING AN APPEAL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f)(1) A judge of the court established under subsection (a), the court established under subsection (b) or a judge of that court, or the Supreme Court of the United States or a justice of that court, may, in accordance with the rules of their respective courts, enter a stay of an order or an order modifying an order of the court established under subsection (a) or the court established under subsection (b) entered under any title of this Act, while the court established under subsection (a) conducts a rehearing, while an appeal is pending to the court established under subsection (b), or while a petition of certiorari is pending in the Supreme Court of the United States, or during the pendency of any review by that court.

''(2) The authority described in paragraph (1) shall apply to an order entered under any provision of this Act.''.

SEC. 110. REVIEW OF PREVIOUS ACTIONS.

(a) DEFINITIONS.—In this section—

(1) the term ''element of the intelligence community'' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(2) the term ''Terrorist Surveillance Program'' means the intelligence program publicly confirmed by the President in a radio address on December 17, 2005, and any previous, subsequent or related, versions or elements of that program.

(b) AUDIT.—Not later than 180 days after the date of the enactment of this Act, the Inspectors General of the Department of Justice and relevant elements of the intelligence community shall work in conjunction to complete a comprehensive audit of the Terrorist Surveillance Program and any closely related intelligence activities, which shall include acquiring all documents relevant to such programs, including memoranda concerning the legal authority of a program, authorizations of a program, certifications to telecommunications carriers, and court orders.

(c) REPORT.—

(1) IN GENERAL.—Not later than 30 days after the completion of the audit under subsection (b), the Inspectors General shall submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a joint report containing the results of that audit, including all documents acquired pursuant to the conduct of that audit.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(d) EXPEDITED SECURITY CLEARANCE.—The Director of National Intelligence shall ensure that the process for the investigation and adjudication of an application by an Inspector General or any appropriate staff of an Inspector General for a security clearance necessary for the conduct of the audit under subsection (b) is conducted as expeditiously as possible.

(e) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR THE INSPECTORS GENERAL.—The Inspectors General of the Department of Justice and of the relevant elements of the intelligence community are authorized such additional legal and other personnel as may be necessary to carry out the prompt and timely preparation of the audit and report required under this section. Personnel authorized by this subsection shall perform such duties relating to the audit as the relevant Inspector General shall direct. The personnel authorized by this subsection are in addition to any other personnel authorized by law.

SEC. 111. TECHNICAL AND CONFORMING AMENDMENTS.

Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''; and

(2) in paragraph (2), by striking ''105B(h) or 501(f)(1)'' and inserting ''501(f)(1) or 702''.

TITLE II—PROTECTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS

SEC. 201. DEFINITIONS.

In this title:

(1) ASSISTANCE.—The term ''assistance'' means the provision of, or the provision of access to, information (including communication contents, communications records, or other information relating to a customer or communication), facilities, or another form of assistance.

(2) CONTENTS.—The term ''contents'' has the meaning given that term in section 101(n) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(n)).

(3) COVERED CIVIL ACTION.—The term ''covered civil action'' means a civil action filed in a Federal or State court that—

(A) alleges that an electronic communication service provider furnished assistance to an element of the intelligence community; and

(B) seeks monetary or other relief from the electronic communication service provider related to the provision of such assistance.

(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term ''electronic communication service provider'' means—

(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

(B) a provider of an electronic communication service, as that term is defined in section 2510 of title 18, United States Code;

(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored;

(E) a parent, subsidiary, affiliate, successor, or assignee of an entity described in subparagraph (A), (B), (C), or (D); or

(F) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), (D), or (E).

(5) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ''element of the intelligence community'' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 202. LIMITATIONS ON CIVIL ACTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

(a) LIMITATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a covered civil action shall not lie or be maintained in a Federal or State court, and shall be promptly dismissed, if the Attorney General certifies to the court that—

(A) the assistance alleged to have been provided by the electronic communication service provider was—

(i) in connection with an intelligence activity involving communications that was—

(I) authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007; and

(II) designed to detect or prevent a terrorist attack, or activities in preparation for a terrorist attack, against the United States; and

(ii) described in a written request or directive from the Attorney General or the head of an element of the intelligence community (or the deputy of such person) to the electronic communication service provider indicating that the activity was—

(I) authorized by the President; and

(II) determined to be lawful; or

(B) the electronic communication service provider did not provide the alleged assistance.

(2) REVIEW.—A certification made pursuant to paragraph (1) shall be subject to review by a court for abuse of discretion.

(b) REVIEW OF CERTIFICATIONS.—If the Attorney General files a declaration under section 1746 of title 28, United States Code, that disclosure of a certification made pursuant to subsection (a) would harm the national security of the United States, the court shall—

(1) review such certification in camera and ex parte; and

(2) limit any public disclosure concerning such certification, including any public order following such an ex parte review, to a statement that the conditions of subsection (a) have been met, without disclosing the subparagraph of subsection (a)(1) that is the basis for the certification.

(c) NONDELEGATION.—The authority and duties of the Attorney General under this section shall be performed by the Attorney General (or Acting Attorney General) or a designee in a position not lower than the Deputy Attorney General.

(d) CIVIL ACTIONS IN STATE COURT.—A covered civil action that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable under section 1441 of title 28, United States Code.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit any otherwise available immunity, privilege, or defense under any other provision of law.

(f) EFFECTIVE DATE AND APPLICATION.—This section shall apply to any covered civil action that is pending on or filed after the date of enactment of this Act.

SEC. 203. PROCEDURES FOR IMPLEMENTING STATUTORY DEFENSES UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 101, is further amended by adding after title VII the following new title:

''TITLE VIII—PROTECTION OF PERSONS ASSISTING THE GOVERNMENT

''SEC. 801. DEFINITIONS.

''In this title:

''(1) ASSISTANCE.—The term 'assistance' means the provision of, or the provision of access to, information (including communication contents, communications records, or other information relating to a customer or communication), facilities, or another form of assistance.

''(2) ATTORNEY GENERAL.—The term 'Attorney General' has the meaning give that term in section 101(g).

''(3) CONTENTS.—The term 'contents' has the meaning given that term in section 101(n).

''(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

''(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

''(B) a provider of electronic communications service, as that term is defined in section 2510 of title 18, United States Code;

''(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

''(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored;

''(E) a parent, subsidiary, affiliate, successor, or assignee of an entity described in subparagraph (A), (B), (C), or (D); or

''(F) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), (D), or (E).

''(5) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community as specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''(6) PERSON.—The term 'person' means—

''(A) an electronic communication service provider; or

''(B) a landlord, custodian, or other person who may be authorized or required to furnish assistance pursuant to—

''(i) an order of the court established under section 103(a) directing such assistance;

''(ii) a certification in writing under section 2511(2)(a)(ii)(B) or 2709(b) of title 18, United States Code; or

''(iii) a directive under section 102(a)(4), 105B(e), as in effect on the day before the date of the enactment of the FISA Amendments Act of 2007 or 703(h).

''(7) STATE.—The term 'State' means any State, political subdivision of a State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States, and includes any officer, public utility commission, or other body authorized to regulate an electronic communication service provider.

''SEC. 802. PROCEDURES FOR IMPLEMENTING STATUTORY DEFENSES.

''(a) REQUIREMENT FOR CERTIFICATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, no civil action may lie or be maintained in a Federal or State court against any person for providing assistance to an element of the intelligence community, and shall be promptly dismissed, if the Attorney General certifies to the court that—

''(A) any assistance by that person was provided pursuant to an order of the court established under section 103(a) directing such assistance;

''(B) any assistance by that person was provided pursuant to a certification in writing under section 2511(2)(a)(ii)(B) or 2709(b) of title 18, United States Code;

''(C) any assistance by that person was provided pursuant to a directive under sections 102(a)(4), 105B(e), as in effect on the day before the date of the enactment of the FISA Amendments Act of 2007, or 703(h) directing such assistance; or

''(D) the person did not provide the alleged assistance.

''(2) REVIEW.—A certification made pursuant to paragraph (1) shall be subject to review by a court for abuse of discretion.

''(b) LIMITATIONS ON DISCLOSURE.—If the Attorney General files a declaration under section 1746 of title 28, United States Code, that disclosure of a certification made pursuant to subsection (a) would harm the national security of the United States, the court shall—

''(1) review such certification in camera and ex parte; and

''(2) limit any public disclosure concerning such certification, including any public order following such an ex parte review, to a statement that the conditions of subsection (a) have been met, without disclosing the subparagraph of subsection (a)(1) that is the basis for the certification.

''(c) REMOVAL.—A civil action against a person for providing assistance to an element of the intelligence community that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable under section 1441 of title 28, United States Code.

''(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section may be construed to limit any otherwise available immunity, privilege, or defense under any other provision of law.

''(e) APPLICABILITY.—This section shall apply to a civil action pending on or filed after the date of enactment of the FISA Amendments Act of 2007.''.

SEC. 204. PREEMPTION OF STATE INVESTIGATIONS.

Title VIII of the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et seq.), as added by section 203 of this Act, is amended by adding at the end the following new section:

''SEC. 803. PREEMPTION.

''(a) IN GENERAL.—No State shall have authority to—

''(1) conduct an investigation into an electronic communication service provider's alleged assistance to an element of the intelligence community;

''(2) require through regulation or any other means the disclosure of information about an electronic communication service provider's alleged assistance to an element of the intelligence community;

''(3) impose any administrative sanction on an electronic communication service provider for assistance to an element of the intelligence community; or

''(4) commence or maintain a civil action or other proceeding to enforce a requirement that an electronic communication service provider disclose information concerning alleged assistance to an element of the intelligence community.

''(b) SUITS BY THE UNITED STATES.—The United States may bring suit to enforce the provisions of this section.

''(c) JURISDICTION.—The district courts of the United States shall have jurisdiction over any civil action brought by the United

States to enforce the provisions of this section.

''(d) APPLICATION.—This section shall apply to any investigation, action, or proceeding that is pending on or filed after the date of enactment of the FISA Amendments Act of 2007.''.

SEC. 205. TECHNICAL AMENDMENTS.

The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 101(b), is further amended by adding at the end the following:

''TITLE VIII—PROTECTION OF PERSONS ASSISTING THE GOVERNMENT

''Sec. 801. Definitions.
''Sec. 802. Procedures for implementing statutory defenses.
''Sec. 803. Preemption.''.

TITLE III—OTHER PROVISIONS

SEC. 301. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act, any such amendments, and of the application of such provisions to other persons and circumstances shall not be affected thereby.

SEC. 302. EFFECTIVE DATE; REPEAL; TRANSITION PROCEDURES.

(a) IN GENERAL.—Except as provided in subsection (c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) REPEAL.—

(1) IN GENERAL.—Except as provided in subsection (c), sections 105A, 105B, and 105C of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a, 1805b, and 1805c) are repealed.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to sections 105A, 105B, and 105C.

(c) TRANSITIONS PROCEDURES.—

(1) PROTECTION FROM LIABILITY.—Notwithstanding subsection (b)(1), subsection (l) of section 105B of the Foreign Intelligence Surveillance Act of 1978 shall remain in effect with respect to any directives issued pursuant to such section 105B for information, facilities, or assistance provided during the period such directive was or is in effect.

(2) ORDERS IN EFFECT.—

(A) ORDERS IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(i) any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 or section 6(b) of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 556) shall remain in effect until the date of expiration of such order; and

(ii) at the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall reauthorize such order if the facts and circumstances continue to justify issuance of such order under the provisions of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

(B) ORDERS IN EFFECT ON DECEMBER 31, 2013.—Any order issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2013, shall continue in effect until the date of the expiration of such order. Any such order shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended.

(3) AUTHORIZATIONS AND DIRECTIVES IN EFFECT.—

(A) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DATE OF ENACTMENT.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978, any authorization or directive in effect on the date of the enactment of this Act issued pursuant to the Protect America Act of 2007, or any amendment made by that Act, shall remain in effect until the date of expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Protect America Act of 2007 (121 Stat. 552), and the amendment made by that Act, and, except as provided in paragraph (4) of this subsection, any acquisition pursuant to such authorization or directive shall be deemed not to constitute electronic surveillance (as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)), as construed in accordance with section 105A of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805a)).

(B) AUTHORIZATIONS AND DIRECTIVES IN EFFECT ON DECEMBER 31, 2013.—Any authorization or directive issued under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act, in effect on December 31, 2013, shall continue in effect until the date of the expiration of such authorization or directive. Any such authorization or directive shall be governed by the applicable provisions of the Foreign Intelligence Surveillance Act of 1978, as so amended, and, except as provided in section 704 of the Foreign Intelligence Surveillance Act of 1978, as so amended, any acquisition pursuant to such authorization or directive shall be deemed not to constitute electronic surveillance (as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978, to the extent that such section 101(f) is limited by section 701 of the Foreign Intelligence Surveillance Act of 1978, as so amended).

(4) USE OF INFORMATION ACQUIRED UNDER PROTECT AMERICA ACT.—Information acquired from an acquisition conducted under the Protect America Act of 2007, and the amendments made by that Act, shall be deemed to be information acquired from an electronic surveillance pursuant to title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) for purposes of section 106 of that Act (50 U.S.C. 1806), except for purposes of subsection (j) of such section.

(5) NEW ORDERS.—Notwithstanding any other provision of this Act or of the Foreign Intelligence Surveillance Act of 1978—

(A) the government may file an application for an order under the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act; and

(B) the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall enter an order granting such an application if the application meets the requirements of such Act, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

(6) EXTANT AUTHORIZATIONS.—At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act.

(7) APPLICABLE PROVISIONS.—Any surveillance conducted pursuant to an order entered pursuant to this subsection shall be subject to the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the date of the enactment of the Protect America Act of 2007, except as amended by sections 102, 103, 104, 105, 106, 107, 108, and 109 of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 398—HONORING THE LIFE AND RECOGNIZING THE ACCOMPLISHMENTS OF JOE NUXHALL, BROADCASTER FOR THE CINCINNATI REDS

Mr. BROWN submitted the following resolution; which was considered and agreed to:

S. RES. 398

Whereas Joe Nuxhall was born on July 30th, 1928 in Hamilton, Ohio.

Whereas on June 10th, 1944 at the age of 15 years, 10 months, and 11 days Joe Nuxhall became the youngest player in the modern era to appear in a major league baseball game.

Whereas Joe Nuxhall earned over 100 victories in his sixteen year major league career and was elected into the Cincinnati Reds Hall of Fame.

Whereas Joe Nuxhall began a radio broadcasting career in 1967 and went on to call over 6,000 games for the Cincinnati Reds.

Whereas Joe Nuxhall had a career spanning over sixty years with the Cincinnati Reds.

Whereas Joe Nuxhall will be remembered for his signature signoff, ''This is the Ol' Lefthander rounding third and heading for home.''

Whereas Joe Nuxhall whose voice was synonymous with baseball and the summer for generations of fans across the country.

Whereas Joe Nuxhall was a beloved community leader, philanthropist, husband, father, and advocate for children, public schools, and the elderly.

Whereas Ohio has lost a beloved son and baseball one of its most distinctive voices with the passing of Joe Nuxhall on November 15, 2007.

Resolved, That the Senate honors the life of Joe Nuxhall, baseball legend, dedicated family man, and civic-minded leader.

SENATE RESOLUTION 399—EXPRESSING THE SENSE OF THE SENATE THAT CERTAIN BENCHMARKS MUST BE MET BEFORE CERTAIN RESTRICTIONS AGAINST THE GOVERNMENT OF NORTH KOREA ARE LIFTED, AND THAT THE UNITED STATES GOVERNMENT SHOULD NOT PROVIDE ANY FINANCIAL ASSISTANCE TO NORTH KOREA UNTIL THE SECRETARY OF STATE MAKES CERTAIN CERTIFICATIONS REGARDING THE SUBMISSION OF APPLICATIONS FOR REFUGEE STATUS

Mr. BROWNBACK (for himself, Mr. KYL, Mr. LIEBERMAN, and Mr. GRASSLEY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 399

Whereas international press reports noted that Iranian officials traveled to North Korea to observe the long and short-range missile tests conducted by the North Korean

regime on July 4, 2006, and this was confirmed by Ambassador Christopher Hill, Assistant Secretary of State for East Asia and the Pacific, during testimony before the Committee on Foreign Relations of the Senate on July 20, 2006;

Whereas international press reports in the summer of 2006 indicated that North Korea was involved in training in guerrilla warfare of Hezbollah cadres who subsequently were involved in operations against Israeli forces in south Lebanon;

Whereas the United Nations Security Council, under the presidency of Japan, unanimously adopted Resolution 1718 on October 14, 2006, ''condemning'' the nuclear weapon test conducted by North Korea on October 9, 2006, and imposing sanctions on North Korea;

Whereas President George W. Bush stated in November 2006 that: ''The transfer of nuclear weapons or material by North Korea to states or non-state entities would be considered a grave threat to the United States, and we would hold North Korea fully accountable for the consequences of such action. . . . It is vital that the nations of this region send a message to North Korea that the proliferation of nuclear technology to hostile regimes or terrorist networks will not be tolerated.'';

Whereas Secretary of State Condoleezza Rice stated in October 2006 that ''a North Korean decision to try to transfer a nuclear weapon or technologies either to another state or to a non-state actor'' would be an ''extremely grave'' action for which the United States would ''hold North Korea accountable''; and

Whereas Congress authoritatively expressed its view, in section 202(b)(2) of the North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7832(b)(2)), that ''United States nonhumanitarian assistance to North Korea shall be contingent on North Korea's substantial progress'' on human rights improvements, release of and accounting for abductees, family reunification, reform of North Korea's labor camp system, and the decriminalization of political expression, none of which has occurred: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that restrictions against the Government of North Korea were imposed by reason of a determination of the Secretary of State that the Government of North Korea, for purposes of section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. App. 2405(j)), section 40 of the Arms Export Control Act (22 U.S.C. 2780), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), and other provisions of law, was a government that has repeatedly provided support for acts of international terrorism;

(2) believes that this designation should remain in effect and should not be lifted unless it can be demonstrated that the Government of North Korea—

(A) is no longer engaged in the illegal transfer of missile or nuclear, biological, or chemical weapons technology, particularly to the Governments of Iran, Syria, or any other country, the government of which the Secretary of State has determined, for purposes of any of the provisions of law specified in paragraph (1), is a government that has repeatedly provided support for acts of international terrorism;

(B) is no longer engaged in training, harboring, supplying, financing, or supporting in any way—

(i) Hamas, Hezbollah, or the Japanese Red Army, or any member of such organizations;

(ii) any organization designated by the Secretary of State as a foreign terrorist organization in accordance with section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)); and

(iii) any person included on the Annex to Executive Order 13224 (September 23, 2001) and any other person identified under section 1 of that Executive Order whose property and interests in property are blocked by that section (commonly known as a ''specially designated global terrorist'');

(C) is no longer engaged in the counterfeiting of United States currency ''supernotes'';

(D) has made inoperable Bureau No. 39 under the North Korean Workers Party headed by Kim Jong Il, which is charged with laundering illicit funds obtained by narcotics trafficking and other criminal activities;

(E) has released United States permanent resident Kim Dong-Shik who, according to the findings of a South Korean court, was abducted by North Korean agents on the Chinese border in January 2000;

(F) has released or fully accounted to the satisfaction of the Government of the United States and the Government of the Republic of Korea for the whereabouts of the 15 Japanese nationals recognized as abduction victims by the National Police Agency (NPA) of Japan;

(G) has released or fully accounted to the satisfaction of the Government of the United States and the Government of the Republic of Korea for the whereabouts of an estimated 600 surviving South Korean prisoners of war, comrades-in-arms of United States and Allied forces, who have been held in North Korea against their will and in violation of the Armistice Agreement since hostilities ended in July 1953; and

(H) has ceased and desisted from engaging in further terrorist activities subsequent to the 1987 bombing of Korean Air Flight 858 over Burma, the 1996 murder in Vladivostok, Russia, of South Korean diplomat Choi Duck-keun, following Pyongyang's threats of retaliation for the deaths of North Korean commandoes whose submarine ran aground in South Korea, and the 1997 assassination on the streets of Seoul of North Korean defector Lee Han Young; and

(3) believes that the United States Government should not provide any financial assistance to North Korea (except for adequately monitored humanitarian assistance in the form of food and medicine) unless the Secretary of State certifies that—

(A) appropriate guidance has been provided to all foreign embassies and consular offices regarding their responsibility under section 303 of the North Korean Human Rights Act of 2004 (22 U.S.C. 7843) to facilitate the submission of applications by citizens of North Korea seeking protection as refugees under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157);

(B) such guidance has been published in the Federal Register; and

(C) the facilities described in subparagraph (A) are carrying out the responsibility described in subparagraph (A) in good faith.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3821. Mr. THUNE (for Mr. MCCONNELL) proposed an amendment to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

SA 3822. Mr. THUNE (for Mr. GREGG) proposed an amendment to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra.

SA 3823. Mr. THUNE (for Mr. GRASSLEY (for himself, Mr. KOHL, and Mr. HARKIN)) proposed an amendment to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra.

TEXT OF AMENDMENTS

SA 3821. Mr. THUNE (for Mr. MCCONNELL) proposed an amendment to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; as follows:

On page 20, line 11, strike ''pulse crops,''.

On page 23, strike paragraph (14) and redesignate paragraphs (15) through (17) as paragraphs (14) through (16), respectively.

On page 24, line 18, strike ''pulse crop or''.

On page 26, line 6, strike ''pulse crop or''.

On page 27, line 17, strike ''camelina, or eligible pulse crop'' and insert ''or camelina''.

On page 27, lines 21 and 22, strike ''CAMELINA, AND ELIGIBLE PULSE CROPS'' and insert ''AND CAMELINA''.

On page 27, lines 24 and 25, strike ''camelina, and eligible pulse crops'' and insert ''and camelina''.

On page 28, line 2, strike ''camelina, or pulse crop'' and insert ''or camelina''.

On page 28, line 5, strike ''camelina, or pulse crop'' and insert ''or camelina''.

On page 28, lines 8 and 9, strike ''camelina, or eligible pulse crop'' and insert ''or camelina''.

Beginning on page 28, line 12, through page 29, line 9, strike ''camelina, or pulse crop'' each place it appears and insert ''or camelina''.

On page 29, lines 15 through 19, strike ''camelina, and eligible pulse crops'' each place it appears and insert ''and camelina''.

On page 29, line 24, strike ''(other than pulse crops)''.

On page 35, strike lines 8 through 13.

Beginning on page 49, strike line 19 and all that follows through page 51, line 4, and insert the following:

(a) LOAN RATES.—For each of the 2008 through 2012 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.75 per bushel.

(2) In the case of corn, $1.95 per bushel.

(3) In the case of grain sorghum, $1.95 per bushel.

(4) In the case of barley, $1.85 per bushel.

(5) In the case of oats, $1.33 per bushel.

(6) In the case of the base quality of upland cotton, $0.52 per pound.

(7) In the case of extra long staple cotton, $0.7977 per pound.

(8) In the case of long grain rice, $6.50 per hundredweight.

(9) in the case of medium grain rice, $6.50 per hundredweight.

(10) In the case of soybeans, $5.00 per bushel.

(11) In the case of other oilseeds, $.0930 per pound.

(12) In the case of dry peas, $5.40 per hundredweight.

(13) In the case of lentils, $11.28 per hundredweight.

(14) In the case of small chickpeas, $7.43 per hundredweight.

(15) In the case of large chickpeas, $11.28 per hundredweight.

(16) In the case of graded wool, $1.00 per pound.

(17) In the case of nongraded wool, $0.40 per pound.

(18) In the case of mohair, $4.20 per pound.

(19) In the case of honey, $0.60 per pound.

On page 85, line 4, strike ''pulse crop or''.

On page 86, line 18, strike ''pulse crop or''.

On page 663, between lines 18 and 19, insert the following:

SEC. 49___. PERIODIC SURVEYS OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.

Section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755) is amended by adding at the end the following:

''(f) PERIODIC SURVEYS OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.—

''(1) IN GENERAL.—For fiscal year 2008 and every fifth fiscal year thereafter, the Secretary shall carry out a nationally representative survey of the foods purchased during the most recent school year for which data is available by school authorities participating in the national school lunch program.

''(2) REPORT.—On completion of each survey, the Secretary shall submit to Congress a report that describes the results of the survey.

''(3) FUNDING.—Of the funds made available under section 3, the Secretary shall use to carry out this subsection not more than $3,000,000 for fiscal year 2008 and every fifth fiscal year thereafter.''.

On page 672, between lines 6 and 7, insert the following:

SEC. 49___. TEAM NUTRITION NETWORK.

Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended by striking subsection (l) and inserting the following:

''(l) FUNDING.—

''(1) MANDATORY FUNDING.—

''(A) IN GENERAL.—On October 1, 2008, and on each October 1 thereafter through October 1, 2011, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $25,000,000, to remain available until expended.

''(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subparagraph (A), without further appropriation.

''(C) NUTRITIONAL HEALTH OF SCHOOL CHILDREN.—In allocating funds made available under this paragraph, the Secretary shall give priority to carrying out subsections (a) through (g).

''(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under paragraph (1), there are authorized to be appropriated such sums as are necessary to carry out this section.''.

SA 3822. Mr. THUNE (for Mr. GREGG) proposed an amendment to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; as follows:

Strike subtitle A of title XII and insert the following:

Subtitle A—Low-Income Home Energy Assistance

SEC. 12101. APPROPRIATIONS.

In addition to any amounts appropriated under any other Federal law, there is appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2008, $924,000,000 (to remain available until expended) for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), notwithstanding the designation requirement of section 2602(e) of such Act (42 U.S.C. 8621(e)).

SEC. 12102. DEFICIT REDUCTION.

It is the sense of Congress that the difference between—

(1) the amount that would be made available under subtitle A of title XII (as specified in Senate amendment 3500, as proposed on November 5, 2007, to H.R. 2419, 110th Congress); and

(2) the amount made available under section 12101,

should be used only for deficit reduction.

SA 3823. Mr. THUNE (for Mr. GRASSLEY (for himself, Mr. KOHL, and Mr. HARKIN)) proposed an amendment to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; as follows:

On page 1220, between lines 11 and 12, insert the following:

(c) AGRICULTURE COMPETITION TASK FORCE.—

(1) ESTABLISHMENT.—There is established, under the authority of the Attorney General, the Agriculture Competition Task Force, to examine problems in agricultural competition.

(2) MEMBERSHIP.—The Task Force shall consist of—

(A) the Assistant Attorney General, who shall serve as chairperson of the Task Force;

(B) the Special Counsel;

(C) a representative from the Federal Trade Commission;

(D) a representative from the Department of Agriculture, Office of Packers and Stockyards;

(E) 1 representative selected jointly by the attorneys general of States desiring to participate in the Task Force;

(F) 1 representative selected jointly by the heads of the departments of agriculture (or similar such agency) of States desiring to participate in the Task Force;

(G) 8 individuals who represent the interests of small family farmers, ranchers, independent producers, packers, processors, and other components of the agricultural industry—

(i) 2 of whom shall be selected by the Majority Leader of the Senate;

(ii) 2 of whom shall be selected by the Minority Leader of the Senate;

(iii) 2 of whom shall be selected by the Speaker of the House of Representatives; and

(iv) 2 of whom shall be selected by the Minority Leader of the House of Representatives; and

(H) 4 academics or other independent experts working in the field of agriculture, agricultural law, antitrust law, or economics—

(i) 1 of whom shall be selected by the Majority Leader of the Senate;

(ii) 1 of whom shall be selected by the Minority Leader of the Senate;

(iii) 1 of whom shall be selected by the Speaker of the House of Representatives; and

(iv) 1 of whom shall be selected by the Minority Leader of the House of Representatives.

(3) DUTIES.—The Task Force shall—

(A) study problems in competition in the agricultural industry;

(B) establish ways to coordinate Federal and State activities to address unfair and deceptive practices and concentration in the agricultural industry;

(C) work with representatives from agriculture and rural communities to identify abusive practices in the agricultural industry;

(D) submit to Congress such reports as the Task Force determines appropriate on the state of family farmers and ranchers, and the impact of agricultural concentration and unfair business practices on rural communities in the United States; and

(E) make such recommendations to Congress as the Task Force determines appropriate on agricultural competition issues, which shall include any additional or dissenting views of the members of the Task Force.

(4) WORKING GROUP.—

(A) IN GENERAL.—The Task Force shall establish a working group on buyer power to study the effects of concentration, monopsony, and oligopsony in agriculture, make recommendations to the Assistant Attorney General and the Chairman, and assist the Assistant Attorney General and the Chairman in drafting agricultural guidelines under subsection (e)(1).

(B) MEMBERS.—The working group shall include any member of the Task Force selected under paragraph (2)(H).

(5) MEETINGS.—

(A) FIRST MEETING.—The Task Force shall hold its initial meeting not later than the later of—

(i) 90 days after the date of enactment of this Act; and

(ii) 30 days after the date of enactment of an Act making appropriations to carry out this subsection.

(B) MINIMUM NUMBER.—The Task Force shall meet not less than once each year, at the call of the chairperson.

(6) COMPENSATION.—

(A) IN GENERAL.—The members of the Task Force shall serve without compensation.

(B) TRAVEL EXPENSES.—Members of the Task Force shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(7) STAFF OF TASK FORCE; EXPERTS AND CONSULTANTS.—

(A) STAFF.—

(i) APPOINTMENT.—The chairperson of the Task Force may, without regard to the provisions of chapter 51 of title 5, United States Code (relating to appointments in the competitive service), appoint and terminate an executive director and such other staff as are necessary to enable the Task Force to perform its duties. The appointment of an executive director shall be subject to approval by the Task Force.

(ii) COMPENSATION.—The chairperson of the Task Force may fix the compensation of the executive director and other staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to classification of positions and General Schedule pay rates), except that the rate of pay for the executive director and other staff may not exceed the rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, as in effect from time to time.

(B) EXPERTS AND CONSULTANTS.—The Task Force may procure temporary and intermittent services of experts and consultants in accordance with section 3109(b) of title 5, United States Code.

(8) POWERS OF THE TASK FORCE.—

(A) HEARINGS AND MEETINGS.—The Task Force, or a member of the Task Force if authorized by the Task Force, may hold such hearings, sit and act at such time and places, take such testimony, receive such evidence, and administer such oaths or affirmations as the Task Force considers to be appropriate.

(B) OFFICIAL DATA.—

(i) IN GENERAL.—The Task Force may obtain directly from any executive agency (as defined in section 105 of title 5, United States Code) or court information necessary to enable it to carry out its duties under this subsection. On the request of the chairperson of the Task Force, and consistent with any other law, the head of an executive agency or

of a Federal court shall provide such information to the Task Force.

(ii) CONFIDENTIAL INFORMATION.—The Task Force shall adopt procedures that ensure that confidential information is adequately protected.

(C) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Task Force on a reimbursable basis such facilities and support services as the Task Force may request. On request of the Task Force, the head of an executive agency may make any of the facilities or services of such agency available to the Task Force, on a reimbursable or nonreimbursable basis, to assist the Task Force in carrying out its duties under this subsection.

(D) EXPENDITURES AND CONTRACTS.—The Task Force or, on authorization of the Task Force, a member of the Task Force may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Task Force or such member considers to be appropriate for the purpose of carrying out the duties of the Task Force. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in advance in appropriation Acts.

(E) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(F) GIFTS, BEQUESTS, AND DEVISES.—The Task Force may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Task Force. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Task Force.

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $1,000,000 for each of fiscal years 2008, 2009, and 2010.

(d) AUTHORIZATION FOR ADDITIONAL STAFF AND FUNDING.—There are authorized to be appropriated such sums as are necessary to hire additional employees (including agricultural law and economics experts) for the Transportation, Energy, and Agriculture Section of the Antitrust Division of the Department of Justice, to enhance the review of agricultural transactions and monitor, investigate, and prosecute unfair and deceptive practices in the agricultural industry.

(e) ENSURING FULL AND FREE COMPETITION IN AGRICULTURE.—

(1) AGRICULTURAL GUIDELINES.—

(A) FINDINGS.—Congress finds the following:

(i) The effective enforcement of the antitrust laws in agriculture requires that the antitrust enforcement agencies have guidelines with respect to mergers and other anticompetitive conduct that are focused on the special circumstances of agricultural commodity markets.

(ii) There has been a substantial increase in concentration in the markets in which agricultural commodities are sold, with the result that buyers of agricultural commodities often possess regional dominance in the form of oligopsony or monopsony relative to sellers of such commodities. A substantial part of this increase in market concentration is the direct result of mergers and acquisitions that the antitrust enforcement agencies did not challenge, in large part because of the lack of guidelines focused on identifying particular structural characteristics in the agricultural industry and the adverse competitive effects that such acquisitions and mergers would create.

(iii) The cost of transportation, impact on quality, and delay in sales of agricultural commodities if they are to be transported to more distant buyers may result in narrow geographic markets with respect to buyer power.

(iv) Buyers have no economic incentive to bid up the price of agricultural commodities in the absence of effective competition. Further, the nature of buying may make it feasible for larger numbers of buyers to engage in tacit or overt collusion to restrain price competition.

(v) Buyers with oligopsonistic or monopsonistic power have incentives to engage in unfair, discriminatory, and exclusionary acts that cause producers of agricultural commodities to receive less than a competitive price for their goods, transfer economic risks to sellers without reasonable compensation, and exclude sellers from access to the market.

(vi) Markets for agricultural commodities often involve contexts in which many producers have relatively limited information and bargaining power with respect to the sale of their commodities. These conditions invite buyers with significant oligopsonistic or monopsonistic power to exercise that power in ways that involve discrimination and undue differentiation among sellers.

(B) ISSUANCE OF GUIDELINES.—After consideration of the findings under subparagraph (A), the Assistant Attorney General and the Chairman, in consultation with the Special Counsel, shall issue agricultural guidelines that—

(i) facilitate a fair, open, accessible, transparent, and efficient market system for agricultural products;

(ii) recognize that not decreasing competition in the purchase of agricultural products by highly concentrated firms from a sector in perfect competition is entirely consistent with the objective of the antitrust laws to protect consumers and enhance consumer benefits from competition; and

(iii) require the Assistant Attorney General or the Chairman, as the case may be, to challenge any merger or acquisition in the agricultural industry, if the effect of that merger or acquisition may be to substantially lessen competition or tend to create a monopoly.

(C) CONTENTS.—The agricultural guidelines issued under subparagraph (B) shall consist of merger guidelines relating to existing and potential competition and vertical integration that—

(i) establish appropriate methodologies for determining the geographic and product markets for mergers affecting agricultural commodity markets;

(ii) establish thresholds of increased concentration that raise a concern that the merger will have an adverse effect on competition in the affected agricultural commodities markets;

(iii) identify potential adverse competitive effects of mergers in agricultural commodities markets in a nonexclusive manner; and

(iv) identify the factors that would permit an enforcement agency to determine when a merger in the agricultural commodities market might avoid liability because it is not likely to have an adverse effect on competition.

(2) AGRICULTURE COMPETITION TASK FORCE WORKING GROUP ON BUYING POWER.—In issuing agricultural guidelines under this subsection, the Chairman and the Assistant Attorney General shall consult with the working group on buyer power of the Task Force established under subsection (c)(4).

(3) COMPLETION.—Not later than 2 years after the date of enactment of this Act, the Chairman and the Assistant Attorney General shall—

(A) issue agricultural guidelines under this subsection;

(B) submit to Congress the agricultural guidelines issued under this subsection; and

(C) submit to Congress a report explaining the basis for the guidelines, including why it incorporated or did not incorporate each recommendation of the working group on buyer power of the Task Force established under subsection (c)(4).

(4) REPORT.—Not later than 30 months after the date of enactment of this Act, the Chairman and the Assistant Attorney General shall jointly submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives regarding the issuing of agricultural guidelines under this subsection.

(f) AGRIBUSINESS MERGER REVIEW AND ENFORCEMENT BY THE DEPARTMENT OF AGRICULTURE.—

(1) NOTICE.—The Assistant Attorney General or the Commissioner, as appropriate, shall notify the Secretary of any filing under section 7A of the Clayton Act (15 U.S.C. 18a) involving a merger or acquisition in the agricultural industry, and shall give the Secretary the opportunity to participate in the review proceedings.

(2) REVIEW.—

(A) IN GENERAL.—After receiving notice of a merger or acquisition under paragraph (1), the Secretary may submit to the Assistant Attorney General or the Commissioner, as appropriate, and publish the comments of the Secretary regarding that merger or acquisition, including a determination regarding whether the merger or acquisition may present significant competition and buyer power concerns, such that further review by the Assistant Attorney General or the Commissioner, as appropriate, is warranted.

(B) SECOND REQUESTS.—For any merger or acquisition described in paragraph (1), if the Assistant Attorney General or the Chairman, as the case may be, requires the submission of additional information or documentary material under section 7A(e)(1)(A) of the Clayton Act (15 U.S.C. 18a(e)(1)(A))—

(i) copies of any materials provided in response to such a request shall be made available to the Secretary; and

(ii) the Secretary—

(I) shall submit to the Assistant Attorney General or the Chairman such additional comments as the Secretary determines appropriate; and

(II) shall publish a summary of any comments submitted under subclause (I).

(3) REPORT.—

(A) IN GENERAL.—The Secretary shall submit an annual report to Congress regarding the review of mergers and acquisitions described in paragraph (1).

(B) CONTENTS.—Each report submitted under subparagraph (A) shall provide a description of each merger or acquisition described in paragraph (1) that was reviewed by the Secretary during the year before the date that report is submitted, including—

(i) the name and total resources of each entity involved in that merger or acquisition;

(ii) a statement of the views of the Secretary regarding the competitive effects of that merger or acquisition on agricultural markets, including rural communities and small, independent producers; and

(iii) a statement indicating whether the Assistant Attorney General or the Chairman, as the case may be, instituted a proceeding or action under the antitrust laws, and if so, the status of that proceeding or action.

(g) AUTHORIZATION FOR ADDITIONAL STAFF AND FUNDING FOR THE GRAIN INSPECTION,

PACKERS, AND STOCKYARDS ADMINISTRATION.—There are authorized to be appropriated such sums as are necessary to enhance the capability of the Grain Inspection, Packers, and Stockyards Administration to monitor, investigate, and pursue the competitive implications of structural changes in the meat packing and poultry industries by hiring litigating attorneys to allow the Grain Inspection, Packers, and Stockyards Administration to more comprehensively and effectively pursue its enforcement activities.

(h) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity''—

(A) has the meaning given that term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and

(B) does not include biofuels.

(2) AGRICULTURAL COOPERATIVE.—The term ''agricultural cooperative'' means an association of persons that meets the requirements of the Capper-Volstead Act (7 U.S.C. 291 et seq.).

(3) AGRICULTURAL INDUSTRY.—The term ''agricultural industry''—

(A) means any dealer, processor, commission merchant, or broker involved in the buying or selling of agricultural commodities; and

(B) does not include sale or marketing at the retail level.

(4) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(5) ASSISTANT ATTORNEY GENERAL.—The term ''Assistant Attorney General'' means the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

(6) BIOFUEL.—The term ''biofuel'' has the meaning given that term in section 9001 of the Farm Security and Rural Investment Act of 2002, as amended by section 9001 of this Act.

(7) BROKER.—The term ''broker'' means any person (excluding an agricultural cooperative) engaged in the business of negotiating sales and purchases of any agricultural commodity in commerce for or on behalf of the vendor or the purchaser.

(8) CHAIRMAN.—The term ''Chairman'' means the Chairman of the Federal Trade Commission.

(9) COMMISSION MERCHANT.—The term ''commission merchant'' means any person (excluding an agricultural cooperative) engaged in the business of receiving in commerce any agricultural commodity for sale, on commission, or for or on behalf of another.

(10) DEALER.—The term ''dealer'' means any person (excluding an agricultural cooperative) engaged in the business of buying, selling, or marketing agricultural commodities in commerce, except that no person shall be considered a dealer with respect to sales or marketing of any agricultural commodity produced by that person.

(11) PROCESSOR.—The term ''processor'' means any person (excluding an agricultural cooperative) engaged in the business of handling, preparing, or manufacturing (including slaughtering) an agricultural commodity, or the products of such agricultural commodity, for sale or marketing in commerce for human consumption (excluding sale or marketing at the retail level).

(12) SPECIAL COUNSEL.—The term ''Special Counsel'' means the Special Counsel for Agricultural Competition of the Department of Agriculture established under section 11 of the Packers and Stockyards Act, 1921, as added by this Act.

(13) TASK FORCE.—The term ''Task Force'' means the Agriculture Competition Task Force established under subsection (c).

PRIVILEGES OF THE FLOOR

Ms. STABENOW. Mr. President, I ask unanimous consent that Ilana Levinson from my staff be afforded floor privileges for the duration of the farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE LATE JOE NUXHALL

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 398 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 398) honoring the life and recognizing the accomplishments of Joe Nuxhall, broadcaster for the Cincinnati Reds.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 398) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 398

Whereas Joe Nuxhall was born on July 30th, 1928 in Hamilton, Ohio.

Whereas on June 10th, 1944 at the age of 15 years, 10 months, and 11 days Joe Nuxhall became the youngest player in the modern era to appear in a major league baseball game.

Whereas Joe Nuxhall earned over 100 victories in his sixteen year major league career and was elected into the Cincinnati Reds Hall of Fame.

Whereas Joe Nuxhall began a radio broadcasting career in 1967 and went on to call over 6,000 games for the Cincinnati Reds.

Whereas Joe Nuxhall had a career spanning over sixty years with the Cincinnati Reds.

Whereas Joe Nuxhall will be remembered for his signature signoff, ''This is the Ol' Lefthander rounding third and heading for home.''

Whereas Joe Nuxhall whose voice was synonymous with baseball and the summer for generations of fans across the country.

Whereas Joe Nuxhall was a beloved community leader, philanthropist, husband, father, and advocate for children, public schools, and the elderly.

Whereas Ohio has lost a beloved son and baseball one of its most distinctive voices with the passing of Joe Nuxhall on November 15, 2007.

Resolved, That the Senate honors the life of Joe Nuxhall, baseball legend, dedicated family man, and civic-minded leader.

MEASURES READ THE FIRST TIME—S. 2436, S. 2440, AND S. 2441

Mr. SALAZAR. Mr. President, I understand there are three bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will read the titles of the bills for the first time en bloc.

The legislative clerk read as follows:

A bill (S. 2436) to amend the Internal Revenue Code of 1986 to clarify the term of the Commissioner of Internal Revenue.

A bill (S. 2440) to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

A bill (S. 2441) to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Mr. SALAZAR. Mr. President, I now ask for a second reading en bloc and object to my own request en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will receive their second reading on the next legislative day.

ORDERS FOR TUESDAY, DECEMBER 11, 2007

Mr. SALAZAR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m., Tuesday, December 11; that on Tuesday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour deemed expired, the time for the two leaders reserved for their use later in the day; that there then be a period of morning business for 60 minutes, with time equally divided and controlled between the two leaders or their designees; and Senators permitted to speak therein for up to 10 minutes, with the first half under the control of the Republicans and the final half under the control of the majority; that at the close of morning business, the Senate then resume consideration of H.R. 2419.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SALAZAR. Mr. President, if there is no further business today, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:39 p.m., adjourned until Tuesday, December 11, at 10 a.m.